

Local Government Act (Amendments) – Sections 1-23
The Gambia

NO.5 OF 2002.

Assented to by The President

This Seventeenth day of April, 2002.

YAHYA A.J.J. Jammeh
President

AN ACT to establish and regulate a decentralized local government system for The Gambia; to make provision for the functions, powers and duties of local authorities and for matters connected therewith.

ENACTED by the President and the National Assembly.

PART 1 – PRELIMINARY

Short title

1. This Act may be cited as the Local Government Act, 2002.

Interpretation

2. In this Act, unless the context otherwise requires.

“Alkalo” and “Alkalolu” mean a village headperson and village headpersons, respectively;

“Area Administrator”, means the public officer appointed under section 123 to represent the Central Government in each Local Government Area and includes a Commissioner;

“By-law” means laws made by a Council under this Act;

“Central Government” means the Government of The Gambia;

“Chairperson” means a Chairperson of a Council and includes a Mayor or Mayoress as the case may be;

“Chief Executive” means the Chief Executive of a Council;

“Council” means a City, Municipal or Area Council established under section 10 of this Act;

“Councillor” means a member of the Council;

“Department of State” means the Department of State responsible for the administration of this Act;

“Deputy Chairperson” includes a Deputy Mayor and Mayoress;

“District” means an area demarcated under section 4 of this Act;

“District Authority” means the District Authority established under section 132 of this Act;

“Independent Electoral Commission” means the Commission established under section 42 of the Constitution of the Republic of The Gambia, 1997;

“Local Elector” means a person who is registered to vote in any Local Government Area;

“Local Government Area” means a Division, City or Municipality as demarcated under Part 1 of Schedule 1 to this Act;

“Local Government Authority” means a Council established under this Act;

“Local Government Service” means service in any civil capacity in a Local Government Authority;

“Local government Service Commission” means the Service Commission established under section 118 for a Local Government Authority;

“Misconduct” means 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;

“Provinces” means the Western, Lower River, Central River, North Bank, Upper River Division and such other Divisions as may be established;

“Public Officer” means a person who holds any office in Government or Local Government Service;

“Responsible Secretary of State” in relation to any law, matter, or function, means the Secretary of State to whom the administration of that law, matter or function is,

For the time being, assigned and “responsible Department of State” shall be construed accordingly;

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“Road” has the meaning assigned to it under the Roads and Highways Act as amended from time to time;

“Secretary of State” means the Secretary of State responsible for the administration of this Act;

“Seyfo” means a District Seyfo.

PART II – LOCAT GOVERNMENT AREAS

Demarcation of Local Government Areas

Local Government
Part I Schedule 1

3.(1) For the purpose of local administration, The Gambia shall be divided into the Divisions, Areas, Cities, and Municipalities set out Part 1 of Schedule 1 of this Act.

(2) The geographical boundaries of each Local Government Area shall be demarcated by the Independent Electoral Commission on the request of the Department of State.

(3) The geographical boundaries demarcated by the Independent Electoral Commission in accordance with subsection (2) shall be published by an Order in the Gazette and shall, when approved accordance with section 8 of this Act, be deemed to be Part II of Schedule 1 of this Act.

Part II Schedule 1

(4) Notwithstanding any other provision in this Act, the powers of the Independent Electoral Commission to demarcate boundaries shall be done on the request of the Department of State for Local Government and Lands.

Districts

4.(1) The Independent Electoral Commission shall, by Order published in the Gazette, further divide each Division into such district as the Independent Electoral Commission may deem expedient and may alter or vary them in such manner as may be convenient.

Part III
Schedule 1

(2) An Order made by the Independent Electoral Commission under subsection (1) shall, when approved in accordance with section 8 of this Act, be deemed to be Part III of Schedule 1 to this Act.

Wards

5.(1) For the purpose of electing representatives to each Local Government Authority, the Independent Electoral Commission shall divide a Local Government Area into such number of Wards as the Independent Electoral Commission shall determine.

(2) The Independent Electoral Commission shall, before each Local Government elections, review the existing Wards for the purpose of determining whether or not there is need to vary the boundaries or any Ward.

(3) Any Order made by the Independent Electoral Commission under this section shall, when approved in accordance with section 8 of this Act; be deemed to be Part IV of schedule 1 to this Act.

Part IV
Schedule 1

Factors to be
Taken into
Account by the
Independent
Electoral
Commission

6.(1) In exercising its powers under section 3,4 and 5 of this Act, the Independent Electoral Commission shall seek the views of the local inhabitants of the area to be demarcated, and shall disregard any consideration of the ethnic origin of the inhabitants and shall consider factors including:-

(a) the density of the population;

(b) geographical features;

(c) the boundaries of existing Local Government Areas; and

(d) economic potential.

(2) For the purpose of this section –

“economic potential” means the ability of a Local Government Area to provide the basic infrastructure and other developmental needs from human, financial and other resources generated in the area.

Objections to
demarcation
proposed by the
Independent
Electoral
Commission

7.(1) Any person who has objection to the manner in which a ward, district or Local Government Area in which the person is resident has been demarcated by the Independent Electoral Commission, within fourteen days of the publication of the Order of the Independent Electoral Commission under section 4 or 5, submit the objection to the Independent Electoral Commission.

(2) The Independent Electoral Commission shall consider and take into account any objection made under subsection (1) and may, in consultation with Secretary of State, revise its findings and amend any of its Orders accordingly.

Laying Orders
Before the
National Assembly

8. An Order made by the Independent Electoral Commission under section 3, 4 or 5 shall be laid before the National Assembly at its next meeting after such Order had been made and shall come into effect when approved by the National Assembly and published in the Gazette.

Local Government
Elections

9. Local Government elections shall be held every four years for the election of members of Local Government Authorities, provided that there shall be at least twelve months between any local government election and elections to the National Assembly.

PART III – THE LOCAL GOVERNMENT COUNCILS

The Councils

Establishment

10.(1) There shall be established for the Local Government Areas set out in Column A of Part 1 of Schedule 1, the Councils listed in Column B of that Part which shall be constituted and have such functions as are vested in it by this Act.

(2) Each Council shall be a body corporate by the name “Area Council”, “Municipal Council” or “City Council”, as may be appropriate, preceded by the name of the Local Government Area for which the Council is established.

(3) Each Council shall have perpetual succession and a common seal with power to sue and be sued in its corporate name.

(4) The Secretary of State may, by Order published in the Gazette, establish such additional Councils as he or she may deem necessary for the administration of a Local Government Area.

Composition

11.(1) The Council shall consist of –

(a) a Chairperson elected in accordance with section 13;

(b) a member from each Ward elected by the Ward;

(c) except in the case of the City of Banjul –

- (i) a Seyfo representative member selected by all the District Seyfolu, or
 - (ii) in the case of a Municipality, an Alkalo representative selected by all the Alkalolu in the Municipality;
- (d) a Chief representative member elected by all District Seyfolu or in the case of a Municipality, a representative of the Alkalolu in the Municipality;
- (e) a youth nominated to represent the youth in this Area;
- (f) a woman nominated to represent women's groups in the Area whenever more than two thirds of the members elected under paragraph (b) of this section are male; and
- (g) nominated members, consisting of not more than one-fifth of the elected members of a Council, representing local, commercial and social interest groups.

(2) Nominated members shall be proposed by the civil organisation or groups they represent, and appointed by the Chairperson with the concurrence of the Secretary of State.

The Mayor or
Mayoress

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

Election of
Chairperson

13. (1) A Chairperson shall be elected by universal adult suffrage of all eligible voters in the Local Government Area.

(2) The term of office of the Chairperson shall be four years.

(3) A Chairperson shall be eligible for re-election for two further terms of office only.

Qualification of
Chairperson

14.(1) A person qualifies to be elected Chairperson if he or she holds the qualifications prescribed for Council members under subsection (1) of section 17 and is not disqualified under subsection (3) of that section, and in addition –

- (a) is at least a secondary school graduate; and
- (b) is not less than thirty years old.

(2) A Chairperson shall, unless he or she resigns or becomes disqualified, continue in office until his or her successor becomes entitled to act as Chairperson.

Functions of
Chairperson

15.(1) A Chairperson shall, unless he or she resigns or becomes disqualified, continue in office until his or her successor becomes entitled to act as Chairperson.

- (a) preside at Council meetings
- (b) supervise the general administration of the Area; and
- (c) perform such other functions as may be imposed on the Chairperson by this or any other enactment that may be necessary for the efficient conduct of the business of a Council.

(2) The Chairperson shall be answerable to the Council in the performance of his or her functions and shall uphold the Constitution, the Council's By-laws and the laws of The Gambia.

(3) The Chairperson shall submit to the Council an annual report on the state of affairs of his or her Local Government Area.

Deputy Chairperson

16.(1) A Council shall elect a Deputy Chairperson from among the Councillors who shall serve for the term of the Council unless removed from office and may be eligible for one further term of office only.

(2) The election of a Deputy Chairperson shall be the first business transacted at the first meeting of a Council held after a Local Government Election.

(3) A Deputy Chairperson may be removed from office by resolution supported by a simple majority of the members of the Council.

(4) The Deputy Chairperson shall –

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

Qualification and
Disqualification of
councillors

17. (1) A person qualifies to be elected or nominated as 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) is able to speak the English language with 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 required by section 4(7) of the Election 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 Commission of Income Tax or the appropriate rating authority as required by section 42(7) of the Elections Decree, 1996, as amended.

(2) For the purpose of paragraph (c) of subsection (1) of this section, a person shall be deemed to be ordinarily resident in a Local Government Area if, within the four years prior to the holding of the 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.

(3) A person shall not qualify 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 practicing his profession on grounds of malpractice, fraud or dishonesty by the competent professional body;
- (d) is a person exempted from payment of rates under any enactment;
- (e) is a member of a discipline force;
- (f) is a member of the National Assembly;

(g) a District Seyfo or an Alkalo, except a District Seyfo or an Alkalo selected pursuant to section 11(1)(c) of this Act;

(h) is an undischarged bankrupt;

(i) is a person holding judicial office; or

(j) is a member of the Independent Electoral Commission.

(4) Subsections (1) (c) and (2) of this section; shall not apply to the Chairperson.

(5) Subject to subsection (3) of this section, no person shall 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.

(6) notwithstanding paragraph (b) or (c) of section (3) of this section, a person shall qualify to be elected or nominated a Council if ten years have elapsed since the end of the sentence or disqualification or if he or she has been pardoned.

(7) No person shall –

(a) be eligible for election to a Council for more than three terms of office;

(b) be eligible for nomination to a Council for more than two consecutive terms of office; or

(c) at any one time, be a member of more than one Council.

(8) A Councillor shall hold office for a term of four years and is eligible for re-election.

Declaration of assets

18. The Independent Electoral Commission shall prescribe the form in which declaration of assets shall be made by candidates to the office of Chairperson or Councillor.

19. (1) Subject to subsection (2) of this section, a person shall Cease to be a member of a Council –

- (a) upon his or her death;
- (b) upon revocation of his or her original mandate and shall be disqualified from standing as a candidate for the two terms immediately following the revocation;
- (c) if by writing addressed to the Chairperson of the Council he or she resigns as a member;
- (d) if he or she becomes disqualified under any of the circumstances specified in subsection (3) of section 17 of this Act;
- (e) if he or she is removed from office under section 22 of this Act; or
- (f) if he or she absents himself or herself from more than three consecutive ordinary meetings of Council without the written permission of the Chairperson of the Council.

(2) The Council shall, upon a complaint made to it that a member of the Council is disqualified under paragraph (d) or (f) of subsection (1) of this section, appoint an ad-hoc committee to investigate the complaint.

(3) An ad-hoc committee shall consist of such members as the Council may determine.

(4) The ad-hoc committee shall submit a report on its findings to the Council within the period specified by the Council on its appointment.

(5) Where the Council, after studying the report is satisfied that a member is affected by paragraph (d), (e) or (f) it shall, by resolution, decide that the member shall cease to be a member of the Council.

(6) A member of the Council who is aggrieved by a decision of the Council that he or she should cease to be a member of that Council may have recourse to the High Court.

Removal of Chairperson
From office

20.(1) Subject to subsection (2), a Chairperson may 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 –

- (a) abuse of office;
- (b) corruption
- (c) misconduct; and
- (d) such physical or mental incapacity as would render him or her incapable of discharging the duties of the office.

(2) For the purposes of removing the Chairperson under subsection (1) of this section, a notice in writing signed by not less than two-thirds of all members of the Council shall be submitted to the Deputy Chairperson –

- (a) stating that they intend to pass a resolution to remove the Chairperson on any of the grounds set out in subsection (1);
- (b) setting out, in the case of removal under subsection (1), other than paragraph (d), the particulars of the charge, supported by necessary documents, where applicable, on which it is claimed that the conduct of the Chairperson be investigated for the purpose of removal.

(3) The Deputy Chairperson shall, within twenty-four hours after receipt of the notice referred to him or her under subsection (2), cause a copy to be transmitted to the Chairperson, the Chief Justice and the Secretary of State.

(4) the Chief Justice shall, within seven days after receipt of the notice under subsection (3), constitute a Tribunal comprising such number of Judges of the High Court as the Chief Justice determines to –

- (a) investigate the allegations contained in the notice and
- (b) report its findings to the Council, stating whether or not there is a case for the removal of the Chairperson.

(5) The Chairperson is entitled to appear at the proceedings of the Tribunal and to be represented by a legal practitioner or other expert or person of his or her own choice.

(6) If the Tribunal determines that there is a *prima facie case* for the removal of the Chairperson under subsection (1), other than under paragraph (d), the Chairperson shall cease to hold office.

(7) For the purpose of removing the Chairperson under paragraph (d) of subsection (1), the resolution submitted to the Deputy Chairperson under subsection (2) shall –

(a) state that it is intended to remove the Chairperson on grounds of physical or mental incapacity; and

(b) give particulars of the alleged incapacity.

(8) In the case of removal under paragraph (d) of subsection (1), the Chief Justice shall, within seven days after the receipt of the notice transmitted under subsection (3), and in consultation with the Director of Medical Services, constitute a Medical Board comprising three qualified medical specialists –

(a) to examine the Chairperson in respect of the alleged incapacity; and

(b) report its findings to the Council.

(9) The Medical Board shall examine the Chairperson within fourteen days after it is constituted.

(10) The Chairperson shall submit himself or herself to the Medical Board for examination on a day and time determined by the Board.

(11) The Chairperson shall cease to hold office, if the Medical Board –

(a) determines that the Chairperson is by reason of physical or mental incapacity unable to perform the functions of his or her office; or

(b) reports that the Chairperson has failed or refused to submit himself or herself to the Medical Board for examination.

(12) Failure by the Deputy Chairperson to convene a meeting of the Council within fourteen days after receipt of the report of the Medical Board, or by the Council to move the resolution for the removal of the Chairperson within fourteen days after the receipt of such report, shall render the resolution time-barred, provided that where the Deputy Chairperson fails to convene a meeting of the Council, a meeting may be convened by two-thirds majority of the members of the Council.

(13) The expenses of the Tribunal and Medical Board shall be met by the relevant Council.

Right of appeal

21. (1) A chairperson who is removed from office on the grounds set out in subsection (1) (a), (b) or (c) of section 20, may appeal to the Court of Appeal within fourteen days of the decision of the Tribunal removing him or her.

(2) The decision of the Court of Appeal on any appeal by a Chairperson under subsection (1) shall be delivered within thirty days of the filing of the appeal and shall be final.

Revocation of
Mandate of a
Chairperson or
Member Council

22. (1) Subject to this section, the mandate of a Chairperson or an elected member of a Council may be revoked by the electorate.

(2) For the purpose of revoking the mandate of the Chairperson or an elected member of a Council, at least *fifty per cent* of the registered voters in the electoral area shall petition the Independent Electoral Commission for the revocation.

(3) On receipt of the petition referred to in subsection (2), the Independent Electoral Commission shall organize a referendum to decide the issue whether or not such Chairperson or member shall be recalled.

(4) The issue at the referendum shall 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 or member.

(5) The nomination of a Nominated Member of a Council may be revoked by the Secretary of State in consultation with the Chairperson –

- (a) in the exercise of his or her discretion on grounds which shall be stated;
- (b) on the recommendation of three-quarters of the members of the Council, on grounds that the member has –
 - (i) systematically neglected his or her duties,
 - (ii) committed acts incompatible with his or her office as a member of the Council for which sufficient evidence is available; or
- (c) on a complaint made of wrong doing or improper conduct which is established to be true after investigation by an ad-hoc committee on the Council.

(6) Where the appointment is nominated under subsection (6) of this section he or she shall serve the remainder of the term of the member whose nomination has been revoked, and may be re-nominated.

By-elections

23. Where an elected member of a Council ceases to hold office under sections 19 to 22 of this Act, a by-election shall be held within two months to elect another person to replace him or her; except that where he or she ceased to hold office within six months before the end of his or her tenure of office, no by-election shall be held.