

LAWS OF THE GILBERT ISLANDS
REVISED EDITION 1977

CHAPTER 51

LOCAL GOVERNMENT

ARRANGEMENT OF SECTIONS

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SCHEDULE

An Ordinance to make provision for local government and for matters relating and incidental thereto

Commencement: Section 124—23rd May 1951
Remainder—28th March 1966

7 of 1961
 5 of 1966
 9 of 1967
 12 of 1968
 2 of 1969
 L.N. 7/69
 11 of 1970
 8 of 1971
 10 of 1971
 13 of 1972
 15 of 1972
 19 of 1972
 L.N. 16/72
 3 of 1973
 L.N. 5/73
 3 of 1951,
 s. 12
 (Cap. 19 of
 1973)
 L.N. 16/74
 L.N. 19/74
 L.N. 23/74
 11 of 1975
 20 of 1975
 14 of 1976
 12 of 1977
 26 of 1977

PART I

PRELIMINARY

1. This Ordinance may be cited as the Local Government Ordinance. Short title

2. (1) In this Ordinance, unless the context otherwise requires— Interpretation

“basic rate” means the rate defined and imposed under section 77 (1) (a);

“clerk to a council” means any person appointed as such under Part IX;

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“cognisable offence” shall have the same meaning as in section 2 of the Criminal Procedure Code;

“committee” means a committee appointed under the provisions of section 32 and shall include a committee appointed under section 33 and any sub-committee;

“council” means a local government council established under section 3;

“elected member” means a member of a council elected in accordance with section 6;

“executive officer” means any person appointed as such under Part IX;

“nominated member” means a member of a council appointed in accordance with section 7 or 8;

“person resident” means, in relation to the area of authority of any council, a person ordinarily residing in such area:

Provided that a person shall not be held to have ceased to be so resident by reason only of a period of absence of less than 1 year:

And provided further that a person shall be held to be so resident who—

- (a) not being a public officer, is within the Gilbert Islands but absent from such area in fulfilment of any obligation incurred by him under a contract of employment which provides expressly, or impliedly, for his repatriation to such area upon the termination of the contract or the happening of some earlier event;
- (b) states himself, or is declared after determination, to have his domicile in such area, and who is for the time being a public officer serving, or person regularly employed, within the Islands but outside the area of any council; in this paragraph “domicil” means the place of birth of the person whose domicile is in question, unless such person has a fixed habitation for himself and family in some other place, and the intention of making it his permanent home;
- (c) the wife or dependant of a person referred to in either paragraph (a) or (b) of this proviso and who is accompanying him while he is so absent, serving or employed, as the case may be;

“president” shall include vice-president and in sections 24, 25 and 31 shall include any other person presiding at any meeting of a council;

“rate” includes any rate, tax, duty, toll, due or assessment of whatever description whether public, general or local, and whether uniform or not;

“town council” means a council established in respect of an area described as a town in the warrant establishing the council;

“urban council” means a council established in respect of an area described as an urban area in the warrant establishing the council.

(2) For the purposes of this Ordinance a person shall not be treated as holding, or acting in, a public office if he is on leave of absence pending relinquishment of a public office, or by reason only that he—

- (a) is receiving a pension or other like allowance for public service;
- (b) is receiving any remuneration or allowance as a member of the Council of Ministers or the House of Assembly; or
- (c) holds or is acting in any office or place of profit in the gift or disposal of any council or of any board.

PART II

ESTABLISHMENT OF LOCAL GOVERNMENT COUNCILS

3. The Minister may by warrant under his hand establish such councils as he may deem necessary or expedient for the purposes of local government and may at any time by order amend, vary or cancel any such warrant.

Establishment
of councils

4. (1) A warrant establishing a council shall—

- (a) specify the name of the council and the date it shall be established;
- (b) prescribe the device of the seal of the council;
- (c) define the limits of the area of the authority of the council, and such area shall, unless otherwise specified in the warrant, include the Gilbert Islands waters adjacent to it;
- (d) provide for the number of elected members; and

Contents of
warrant

- (e) specify the functions of the council.
- (2) A warrant establishing a council may—
 - (a) provide for the use of a rubber stamp in lieu of a seal until such time as a seal can be procured;
 - (b) generally make such other provision not inconsistent with this Ordinance as the Minister may deem necessary or expedient for the establishment and conduct of the council and the proper performance of its functions.

Incorporation of councils

5. Every council established under this Ordinance shall be a body corporate having perpetual succession and a common seal and shall be capable in law of suing and being sued and of acquiring, holding and disposing of movable and immovable property.

PART III

COMPOSITION OF COUNCILS AND ELECTIONS

Election of elected members

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6. All elected members of a council shall be elected by registered electors whose names appear on the register of electors for any ward of an electoral district constituted by the provisions of the Elections Ordinance 1977 which lies within the area of that council.

Ex-officio and nominated members of town and urban councils

7. In the case of a town or urban council—

- (a) every elected member of the House of Assembly for an electoral district the whole or part of which lies within the area of authority of the council shall be a member of the council *ex-officio*;
- (b) the Minister after consultation with the council may appoint persons who he considers suitable to be members of the council but the number of nominated members shall in no case exceed one-third of the number of elected members.

Ex-officio and nominated members of other councils

8. In the case of every council other than a town or urban council—

- (a) the following persons shall be members of the council *ex-officio*—
 - (i) every elected member of the House of Assembly for an electoral district the whole or part of which lies within the area of authority of the council;

(ii) every Government medical officer ordinarily resident in the area of authority of the council;

(b) the Minister after consultation with the council may appoint persons whom he considers suitable to be members of the council;

but in every case the number of *ex-officio* and nominated members together shall be less than the number of elected members.

9. (1) Subject to subsections (2) and (3), a person shall be qualified for election as a member of a council if he is entitled to be registered as an elector.

Qualifications and disqualifications for members of elected councils

(2) A person shall be disqualified for election as a member of a council who—

(a) is a public officer and has not received the written authority of the Minister to stand for election; or

(b) unless authorised in writing by the Minister to stand for election, holds or is acting in any office in the gift or disposal of the council or a board; or

(c) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth; or

(d) has within 5 years before the date of the election been surcharged under section 69 to an amount exceeding \$200; or

(e) is disqualified from registering as an elector or from voting by virtue of the provisions of paragraphs (a) and (b) of section 8 (1) of the Elections Ordinance 1977; or

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(f) is disqualified for membership of a council by any law for the time being in force in the Gilbert Islands relating to offences connected with elections.

(3) For the purposes of this section and of section 11—

(a) a person employed by a committee; and

(b) a person employed by 2 or more councils under the provisions of section 95,

shall be deemed to be a person holding or acting in or appointed to hold or act in an office or place of profit in the gift or disposal of the council concerned or of each of such councils, as the case may be.

10. (1) The term of office of the elected members of a council shall be 3 years from the date of election unless otherwise provided in this Ordinance or in the warrant establishing the council;

Term of office of elected members of councils

and such warrant may in particular provide for the retirement annually of one-third of the elected members of the council.

(2) Any person retiring under the provisions of subsection (1) may, if qualified, seek re-election for a further term of office.

(3) No person shall be elected to be a member of a council without his consent.

Tenure of
office of
elected
members of
councils

11. (1) Every elected member of a council shall, without prejudice to his re-election in accordance with this Ordinance, cease to be a member of the council at the expiration of his term of office under section 10, or previously thereto if his seat becomes vacant under the provisions of this Ordinance.

(2) The seat of an elected member of a council shall become vacant—

- (a) if by writing addressed to the president of the council he resigns his seat; or
- (b) if he fails to attend 3 consecutive meetings of the council, or 3 consecutive meetings of any committee of the council, without having obtained before the termination of any such meeting the permission of the council, or, in the case of the meeting of any such committee, the permission of the council or of such committee, to be, or to remain, absent therefrom;
- (c) if not having the authority in writing of the Minister to retain his seat he is appointed to, or to act in, any public office;
- (d) if not having the authority in writing of the Minister to retain his seat, he is appointed to, or to act in, any office or place of profit in the gift or disposal of the council or a board;
- (e) if any circumstances arise that if he were not a member of the council would cause him to be disqualified for election as such by virtue of paragraphs (c), (d) (e) or (f) of section 9 (2).

(3) Any person whose seat as an elected member of a council has become vacant may, if qualified, again be elected as a member of a council from time to time.

Tenure of
office of
nominated
members of
council

12. (1) Every nominated member of a council shall, without prejudice to his re-appointment in accordance with this Ordinance, cease to be a member of the council on the revocation of his appointment by the Minister or at such time as may be specified in the notice by which he was appointed or previously

thereto if his seat becomes vacant under the provisions of this Ordinance.

(2) The seat of a nominated member of a council shall become vacant—

- (a) if by writing addressed to the Minister he resigns his seat;
- (b) if he accepts nomination as a candidate for election to the council.

(3) Any person whose seat as a nominated member in a council has become vacant may again be appointed as a member of a council from time to time.

(4) The Minister may at any time revoke the appointment of a nominated member of a council.

13. Subject to this Ordinance and the Elections Ordinance 1977 all questions which may arise as to the right of any person to be or remain a member of a council shall be referred to and determined by the Minister whose decision shall be final.

Decision on
questions as
to member-
ship
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14. (1) Where a vacancy has occurred among the elected members of a council, a new member to fill such vacancy may be elected in the same manner as the person whose place he is to take was elected.

Filling of
vacancies of
elected
members

(2) A person elected under this section to fill a vacancy shall hold office until the date upon which the person in whose place he is elected would ordinarily have retired and he shall then retire.

15. (1) Every council shall have an elected president and an elected vice-president.

Presidents of
councils

(2) The president and vice-president shall be elected annually by the council by secret ballot from among the members of the council and shall be eligible for re-election and no candidate for the office of president or vice-president shall preside over the election for which he is a candidate.

(3) No person shall be elected president or vice-president without his consent to be so elected.

(4) A president or a vice-president of a council at any time during his term of office may resign or may be removed by resolution of not less than two-thirds of all the members of the council.

16. Whenever a vacancy occurs in the office of president or vice-president, an election to fill the vacancy shall be held at the next meeting of the council after the date on which the vacancy occurs. A person elected to fill such vacancy shall hold office until

Filling of
vacancies of
president and
vice-president.

the date upon which the person in whose place he is elected would ordinarily have retired and he shall then retire but shall be eligible for re-election. In the temporary absence of both the president and vice-president the council may elect one of its members to act as president during such temporary absence.

Term of
office

17. The term of office of a president or vice-president shall normally be for 1 year from the date of his election:

Provided that unless he resigns or is disqualified such person shall be deemed to continue in office until his successor is elected under section 15 (2).

Notification
of names of
president and
vice-president

18. The executive officer to the council shall inform the Minister of the name and term of office of the persons elected to be president or vice-president of the council and shall cause such information to be published at the council's headquarters, and in some prominent place in each electoral ward.

PART IV

MEETINGS AND PROCEEDINGS OF COUNCILS

Number of
meetings

19. A council shall meet at such times and at such places as the president thereof shall determine:

Provided that if a council fails to meet at least twice in any 1 year it may be taken as just cause for suspension of the council under section 47.

Convening of
meetings

20. (1) The president of a council may call a meeting at any time either on his own motion or upon requisition of one-third of the members of the council.

(2) If the president of a council refuses to call a meeting of the council after a written requisition to do so signed by one-third of the members of the council has been presented to him or if, without so refusing, such president does not, within 2 days after such requisition has been presented to him, call a meeting to take place within 3 weeks of the date of the requisition, the persons presenting the requisition may forthwith, on such refusal or on the expiration of 2 days, as the case may be, call a meeting of the council.

(3) 7 days at least before the day of any meeting called under subsection (1) or subsection (2)—

(a) notice of the time and place of the intended meeting shall be published at the office of the council and, where the

meeting is called by members of the council, the notice shall be signed by those members and shall specify the business proposed to be transacted thereat;

- (b) a summons to attend the meeting, signed by the executive officer of the council shall be left at or sent by post to the usual place of abode of every member of the council and such summons shall, in the case of a meeting called by members of the council, state the business which they specified in the notice given by them as proposed for transaction thereat, and in the case of any other meeting, the business which is proposed by the president for transaction thereat:

Provided that want of service of the summons on any member shall not affect the validity of a meeting.

- (4) No business shall be transacted at a meeting called by members of a council other than that specified by them in their notice relating thereto.

21. (1) Subject to section 15 (2), the president shall, if present, preside at meetings of the council. Presiding at meetings

(2) If the president is absent from a meeting of the council the vice-president if present or, in his absence, such member as the members of the council present shall choose, shall preside.

22. No business shall be transacted at a meeting of a council unless at least one half of the whole number of the members of the council are present thereat. Quorum

23. (1) Every meeting of a council shall, within the limits of available accommodation, be open to the public and to the duly accredited representatives of any newspapers: Meetings

Provided however that a council may at any time by resolution exclude the public or such representatives or one or the other of them.

(2) The proceedings of any committee of a council, or a joint committee, shall not be open to the public or to the representatives of any newspapers unless the council or councils appointing the committee or joint committee resolve to admit the public and duly accredited representatives of any newspapers or one or the other of them.

24. (1) Subject to this Ordinance and of the warrant establishing a council, all acts of a council and all questions coming or arising before a council shall be done and decided by a majority Decision on questions

of the members present and voting thereon at a meeting of the council.

(2) The president of a council shall have an original vote and, in the event of an equality of votes, shall have and exercise a second or casting vote.

(3) At the request of at least one-third of the members present at a meeting of a council the president shall order that the voting on any question before the council shall be conducted by secret ballot.

Breaches of
order at
meetings

25. (1) At any meeting of a council, if a member of the council shows disregard for the authority of the president or abuses the standing orders of the council by persistently and wilfully obstructing the business of the council or otherwise, the president shall direct the attention of the meeting to the incident mentioning by name the person concerned and may suspend such person from the exercise of his functions as a member of the council for the remainder of the meeting.

(2) In the case of grave disorder arising in any meeting of a council, the president may, if he thinks it necessary so to do, adjourn the meeting without question put or suspend any meeting for a time to be specified by him.

(3) The person presiding at any meeting of a committee may, if he thinks it necessary so to do, exercise the like powers as are conferred upon a president in relation to a council by subsections (1) and (2).

Minutes

26. (1) Minutes of the proceedings of every meeting of a council or of a committee shall be regularly entered in books kept for that purpose and shall be read and confirmed or amended, as the case may require, and signed by the person presiding at the same or next ensuing meeting of the council or committee, as the case may be, and any minute purporting to be so signed shall be received in evidence without further proof.

(2) The names of members of a council or of a committee present at a meeting of the council or committee as the case may be, shall be recorded in the minutes.

(3) Until the contrary be proved, a meeting of a council or of a committee, in respect of the proceedings whereof a minute has been made and signed as provided in subsection (1), shall be deemed to have been duly convened and held, and all members present at the meeting shall be deemed to have been qualified and, where the proceedings are proceedings of a committee, the

committee shall be deemed to have been duly constituted and to have had power to deal with the matter referred to in the minutes.

27. The minutes of the proceedings of a council shall at all reasonable times be open to inspection and any person may obtain a copy thereof or an extract therefrom upon payment of such fee as may be specified by the council.

Minutes to be open to inspection

28. The proceedings of a council or committee shall not be invalidated by reason of any vacancy among its members or the want of qualification of any member.

Vacancy, etc., not to invalidate proceedings

29. (1) Subject to this Ordinance, a council may, with the prior approval of the Minister, make standing orders for the regulation of its proceedings and business and may, subject to such approval, amend, vary or revoke such orders.

Standing orders

(2) Such standing orders may provide for the payment of an annual honorarium to the president of the council and travelling and attendance allowances to him and other members of the council.

30. If a member of a council or of any committee has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter and is present at a meeting of the council or the committee at which the contract or other matter is the subject of consideration, he shall at the meeting disclose such interest and shall not take part in the consideration or discussion of or vote on any question with respect to the contract or other matter and, if the president so directs, he shall withdraw from the meeting during such consideration or discussion:

Pecuniary interest of member

Provided that this section shall not apply to an interest in a contract or other matter which a member of the council or committee may have as a ratepayer or an inhabitant of the area.

31. The president of a council may invite any person to attend and to speak upon any matter at any meeting of a council, but no such person shall vote upon any matter.

Attendance of non-members

32. (1) A council may appoint such committees as it may deem fit for any general or special purpose which, in the opinion of the council, would be better regulated or managed by means of a committee and may delegate to a committee so appointed, with or without restrictions or conditions as it thinks fit, any power or function without restrictions or conditions as it thinks fit, any power or function exercisable by the council, either with respect

Appointment of committees

to the whole or any part of the area of authority of the council, except the power of making bye-laws, approving annual estimates, levying a rate or borrowing or lending money.

(2) A council may concur with any one or more other councils in appointing a joint committee of such councils for any purpose in which they are jointly interested and may delegate to such committee, with or without restrictions or conditions as they think fit, any power or function of the councils relating to the purpose for which the joint committee is formed except the power of making bye-laws, approving annual estimates, levying a rate or borrowing or lending money.

(3) The chairman and the number of members of a committee appointed under this section, their terms of reference, their term of office and the area within which the committee is to exercise its authority shall be specified by the council or councils, as the case may be, appointing the committee.

(4) A committee appointed under this section may include persons who are not council members, or may be authorised by the council or councils, as the case may be, appointing the committee to co-opt additional members not being council members:

Provided that at least two-thirds of the members of every such committee shall be council members.

(5) No person shall be appointed to be or be co-opted as a member of a committee appointed under this section except with his own consent.

(6) A committee appointed under this section may invite any person, including a council member who is not a member of the committee, to attend meetings and take part in the deliberations of the committee, but no such person shall vote upon any matter at any such meeting.

Special area
committees

33. (1) Subject to this Ordinance and with the prior approval of the Minister, a council may appoint such town, village or area committees within the area of its authority as it may deem necessary or expedient and may delegate to a committee so appointed, with or without restrictions or conditions as it thinks fit, any power or function exercisable by the council with respect to the area of authority of the town, village or area committee, except the power of making bye-laws, approving annual estimates, levying a rate or borrowing or lending money.

(2) The chairman and the number of members of a town, village or area committee appointed under subsection (1), their term of office and method of selection, and the area within which

the committee is to exercise its authority shall be specified by the council.

34. (1) Subject to this Ordinance, a council appointing a committee (including any town, village or area committee) and councils which concur in appointing a joint committee may make, amend, vary and revoke standing orders respecting the quorum, proceedings or place of meeting of the committee or joint committee. Subject to any such standing orders, the quorum, proceedings and place of meeting shall be such as the committee or joint committee may determine.

Standing orders for committees

(2) Without prejudice to the generality of the powers conferred by subsection (1), standing orders made under this section shall provide—

- (a) that all acts of a committee or joint committee shall be done and decided by a majority of members present and voting thereon at a meeting of such committee or joint committee; and
- (b) that the chairman or other person presiding at a meeting of a committee or joint committee shall, in the event of an equality of votes, have and exercise a second or casting vote.

(3) Standing orders made under this section shall not be inconsistent with the standing orders of the council concerned made under section 29.

35. Every committee or joint committee appointed under the provisions of this Part shall report its proceedings to the council or councils appointing such committee.

Committees to report

PART V

FUNCTIONS OF COUNCILS

36. (1) It shall be the duty of every council established under this Ordinance to discharge the functions conferred by this or any other Ordinance and generally to maintain order and good government within the area of its authority; and for these purposes a council may, within the limits of the functions so conferred, either by its own officers or by duly appointed agents do all such things as are necessary or desirable for the discharge of such functions.

Duty to discharge functions

(2) Any function conferred upon a council shall be exercisable over all persons within the area of its authority save as is other-

wise expressly provided in this Ordinance or in any regulations or bye-laws made thereunder or in the warrant establishing the council.

Prevention of
crime

37. It shall be the duty of every council to prevent the commission of any offence within the area of its authority by any person.

Power to
accept gifts

38. A council may accept, hold and administer any gift of property for any public purpose or for the benefit of the inhabitants of the area of its authority or any part thereof and may execute any works (including works of maintenance and improvement) incidental to or consequential on the exercise of the powers conferred by this section.

Fees

39. A council may charge fees for any service or facility provided by the council or for any licence or permit issued by such council under the provisions of this Ordinance or of any regulations or bye-laws made thereunder.

Remission of
fees, etc.

40. A Council may for good cause authorise the remission in whole or in part of any fees or other charges imposed under the provisions of this Ordinance or any regulations or bye-laws made thereunder.

Power to con-
tract

41. A council may enter into any contract necessary for the discharge of any of its functions under this or any other Ordinance:

Provided that a council shall not enter into any contract to the value of \$4,000 or upwards without the prior approval of the Minister.

Insurance

42. A council may insure all or any of its property against risks of any type and may insure itself and any of its members, officers or servants against any liability on account of loss of life or injury, or loss or damage of property, either sustained or caused by any such member, officer or servant arising out of or in the course of his duty as such member, officer or servant.

Provision of
buildings by
councils

43. (1) A council may—

- (a) build, acquire, provide or hire and furnish buildings within the area of its authority to be used for the purpose of transacting the business of the council and for public meetings and assemblies; or
- (b) combine with any other council for the purpose of building, acquiring, providing or hiring and furnishing any such buildings; or

(c) contribute towards the expenses incurred by any other council in building, acquiring, providing or hiring and furnishing any building within the area of the authority of such council suitable for use for any of the aforesaid purposes.

(2) A council may build, provide or hire and maintain quarters or houses for any officer or employee of the council.

44. (1) A council may, for the purpose of any of its functions under this or any other Ordinance, by agreement acquire, whether by way of purchase, lease, gift or exchange, any land situate within or without the area of its authority, whether such land is immediately required or not: Acquisition of and dealings in land

Provided that a council shall not acquire land outside the area of its authority without the prior approval of the Minister.

(2) Where any land is required by a council for the purpose of any of its functions and by reason of disputes or doubts as to the ownership of the land required or inability of the parties to agree the terms or for any other cause the acquisition of the land is being hindered, the Minister may, on the application of the council concerned and on being satisfied that the purpose for which the land is required is of public benefit or importance, declare the land to be acquired for a public purpose under the provisions of the Crown Acquisition of Lands Ordinance, and direct the transfer of such land to the council on payment by the council of all expenses incurred and compensation paid in respect of the acquisition of such land. Cap. 18

(3) Any land acquired under subsection (1) may, until it is required for the purpose for which it was acquired, be held and used for the purpose of any of the functions of the council.

(4) Any land belonging to a council and not required for the purpose for which it was acquired may be appropriated for any other purpose, except that in the case of land compulsorily acquired under subsection (2) the consent of the Minister shall be required.

(5) The Minister may vest on such terms as he may deem just any Crown land in a council where in the opinion of the Minister it appears desirable to do so to enable the council to carry out its functions; and a council shall surrender the same to the Minister at any time when called upon to do so:

Provided that a council shall receive reasonable compensation for any improvements affected by it to any Crown land so surrendered.

Functions **45.** (1) A warrant establishing a council may provide that, subject to such limitations and conditions as may be specified therein, a council either shall perform or may perform all, any or

Schedule any part of the functions listed in the Schedule.

(2) The Minister may by order amend the Schedule.

(3) Nothing in this section shall be deemed to confer on any council authority to perform any act which would constitute a contravention of the terms of any Ordinance.

Powers of public officers

46. The Minister may by order direct that specified public officers, or categories of public officers, shall be deemed to be officers of any council for the purposes of giving effect to and enforcing any bye-laws made by such council.

Power to enforce functions of councils

47. (1) If the Minister is satisfied that any council has made default in the performance of any function conferred or imposed upon it by or under this Ordinance or any other Ordinance for the time being in force, he may make an order declaring the council to be in default and may, by the same or any other order—

- (a) for the purpose of removing the default direct the council to perform such of its functions in such manner and within such time or times as may be specified in the order; or
- (b) transfer to such person or body as he may deem fit such of the functions of the council in default as may be specified in the order.

(2) If a council in respect of which an order has been made under subsection (1) (a) fails to comply with any requirement thereof within the time limited thereby for compliance with that requirement, the Minister may make an order under subsection (1) (b).

(3) Where an order has been made under subsection (1) (b), the Minister may, by the same or any other order, dissolve the council or suspend the council for such time as he may think fit from the performance of such of its functions as may be specified in such order.

Expenses in respect of transferred functions

48. Where any functions of a Council are transferred to any person or body under the provisions of section 47 (1) (b), the expenses incurred by such person or body in discharging those functions shall be a debt due from the council in default to such person or body, as the case may be.

49. In the event of any sudden disaster or emergency endangering the life or property of any persons within the area of authority of a council, the president shall make such decisions and take such steps as may be reasonably necessary to deal with the situation and may so act without prior reference to the council. In any such event, the president shall immediately report the circumstances to the Minister and to the council concerned. Powers in emergency

PART VI

BYE-LAWS

50. (1) A council may from time to time make and having made, amend, vary or cancel bye-laws, having the force of law in the area of authority of the council, for the carrying into effect and for the purposes of any function conferred upon it by virtue of this or any other Ordinance and may in such bye-laws specify a fine not exceeding \$20 or, in default of payment, imprisonment not exceeding 6 weeks for any breach of any such bye-laws and, in the case of a continuing offence, a further penalty not exceeding \$2 for each day on which the offence is continued after written notice of the offence has been served on the offender. Bye-laws

(2) Such bye-laws may further provide that, in addition to any penalty specified in subsection (1), any expense incurred by the council in consequence of any breach of the bye-laws or in the execution of any work directed by any bye-law to be executed by any person and not executed by such person shall be paid by the person committing such breach or failing to execute such work and shall be recoverable as a civil debt.

(3) Bye-laws may make provision for the payment of such fees or charges as shall to the council seem fit:

Provided that, if a council shall make bye-laws relating to the licensing of any occupation, trade, business or industry within the area of its authority, no person shall be required to take out a licence or to pay any licence fee for a licence entitling him to follow or exercise such occupation, trade, business or industry if such occupation, trade, business or industry is also required to be licensed under the provisions of any Ordinance for the time being in force.

(4) Any bye-law made by a council under this section shall be read and construed subject to the provisions of this Ordinance and of any other law for the time being in force in the Gilbert Islands:

Provided that, where a bye-law makes provision for any matter for which provision is made in any other Ordinance for the time being in force, such bye-law shall not be deemed to be invalid unless there be any conflict between the provisions of such bye-law and such Ordinance, in which event the provisions of the Ordinance shall prevail.

(5) Any bye-law made under this Ordinance may require acts or things to be performed or done to the satisfaction of a specified person and may empower a specified person to issue orders to any other person requiring acts or things to be performed or done, imposing conditions and prescribing periods and dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled.

(6) Any bye-law made under this Ordinance may confer upon a council and any of its officers and employees specified in such bye-law such powers of inspection and inquiry and such power to execute any work as may be reasonably necessary for the proper carrying out or enforcement of such bye-law.

(7) Any bye-law may specify that it shall apply to the whole or any part of the area of authority of the council or to all or any class of persons in such area and, failing such specification, a bye-law shall be deemed to apply to all parts of the area of the authority of the council and to all persons therein.

Method of
making bye-
laws

51. (1) Bye-laws shall be made under the common seal of the council and shall be signed by the president after formal resolution of the council, the date of which shall be recorded in the bye-law.

(2) A bye-law made or amended under this Ordinance shall not have effect unless and until approved by the Minister who, before approving, may amend the same. The Minister may approve or refuse to approve any bye-law and may in approving determine the date on which the bye-law is to come into operation.

(3) The Minister may, at any time after having given to a council reasonable notice and having considered the representations, if any, of the council thereon, make or amend any bye-law which such council is empowered by this Ordinance to make, or cancel any bye-law made by such council.

Publication

52. (1) A copy of every bye-law when approved by the Minister shall be deposited at the office of the council by which the bye-law was made and shall at all reasonable times be open to public inspection without payment; and a copy thereof shall, on

application, be furnished to any person on payment of such sum as the council may determine.

(2) Every bye-law approved under this Ordinance shall be published by exhibiting publicly a copy of it, and a translation thereof in the vernacular approved by the Minister, at the office of the council by which the bye-law was made and shall come into operation on the date of such publication, or on such later date as may be specified; and the council may give such other notice as it thinks requisite for bringing it to the attention of the persons affected thereby.

53. A copy of a bye-law purporting to be made by a council, upon which is endorsed a certificate purporting to be signed by the president or such other officer of the council authorised in that behalf, stating—

Evidence of
bye-laws

- (a) that the bye-law was made and published by the council in the prescribed manner;
 - (b) that the copy is a true copy of the bye-law; and
 - (c) that on a specified date the bye-law was duly approved by the Minister and came into operation on a specified date,
- shall be admitted in evidence in any court without further proof, and such certificate shall be evidence of the facts stated therein without further proof and without proof of the hand-writing or official position of the person purporting to sign the certificate.

PART VII

FINANCIAL PROVISIONS AND AUDIT

54. (1) Every council shall set up a general fund into which shall be paid all revenue and other moneys accruing to the council and from which shall be paid all expenditure properly and lawfully incurred by such council.

Establishment
of council
funds

(2) Notwithstanding anything contained in this section a council may with the approval of the Minister establish a special fund for any specific purpose.

55. (1) The revenues or other funds of a council are hereby declared to be as follows—

Revenue of
councils

- (a) all sums of money formerly vested in any council established under the Native Governments Ordinance or the Town Councils Ordinance 1958 within or partly within the area of authority of a council;

Cap. 18 of
1952
5 of 1958

- (b) revenue accruing to a council from the following sources—
- (i) moneys derived from any rate imposed by the council by virtue of the provisions of this Ordinance;
 - (ii) moneys derived from licences, permits, dues, charges or fees specified by any bye-law made by a council;
 - (iii) moneys payable to a council under the provisions of any other Ordinance;
 - (iv) receipts derived from any public utility concern or any service or undertaking belonging to or maintained by a council either in whole or in part;
 - (v) rents derived from the letting or leasing of any building or land belonging to a council;
 - (vi) grants-in-aid out of the Consolidated Fund or other public revenue;
 - (vii) any particular public revenue which may lawfully be assigned to a council;
 - (viii) any sums of money which may lawfully be assigned to a council by any public corporation;
 - (ix) interest on the invested funds of a council;
 - (x) moneys which may accrue from loans received under section 57;
 - (xi) moneys granted to a council by way of gift for any public purpose or for the welfare of all or any of the inhabitants of the area of authority of the council;
 - (xii) all moneys derived from tax collected under the Landowners Taxation Ordinance;
 - (xiii) registration fees under the Dogs Ordinance due and payable within the area of authority of a council; and
 - (xiv) notwithstanding section 17 of the Licences Ordinance, stores' and hawkers' licences issued under the said Ordinance due and payable within the area of authority of a council.

(2) Any other moneys lawfully derived by a council from any other source whatsoever not hereinbefore specifically mentioned shall be and form part of the revenue and funds of such council.

Expenditure

56. Subject to this Ordinance, a council may incur all expenditure necessary for and incidental to the carrying out of any func-

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1973

Cap. 56 of
1973

tions conferred upon it under this or any other Ordinance or by the warrant establishing such council.

57. (1) A council may from time to time, in accordance with a resolution of the council in that behalf, raise loans within the Gilbert Islands of such amounts, from such sources, in such manner, for such purposes and upon such conditions as the Minister may approve. Power to borrow money

(2) Such loans shall be charged indifferently upon all the rates and revenues of the council and shall be repaid within such period as the Minister may determine.

(3) Where any interest or any payment of capital on any loan is due and remains unpaid for 3 months after a demand therefor has been served on the council in writing by the person entitled thereto, the Minister may—

- (a) order the sum due, whether in respect of capital or of interest, to be paid by the council from the general fund or any other funds of the council to the person entitled to receive the sum due; or
- (b) order the sale of any property of the council, including land, and the payment of the whole or any part of the proceeds of the sale of such property in satisfaction or partial satisfaction of the sum due; or
- (c) order that a rate necessary to produce the sum due shall be levied upon and collected from the ratepayers of the area of authority of the council, either immediately or at such date as the Minister shall order; and for the purpose of raising such sum the Minister shall in addition have the same power as the council concerned of making and levying a rate.

(4) The power of the Minister under subsection (3) (c) of making and levying a rate may be exercised at any time.

58. It shall be lawful for a council with the prior approval of the Minister to obtain advances from banks by overdraft charged indifferently upon all the rates and revenues of such council. Overdrafts

59. A council may from time to time, in accordance with a resolution of the council in that behalf, lend money within the Gilbert Islands, of such amounts, to such persons, in such manner, for such purposes and upon such conditions as the Minister may approve. Power to lend money

Investment of funds

60. A council may invest all or any portion of the moneys of the council in such investments as may from time to time be approved by the Minister:

Provided that no such approval shall be required should a council wish to place any portion of its moneys on fixed deposit account with the bank holding the general fund of the council.

Deposit and advance accounts

61. A council may make advances and operate deposit and suspense accounts within such limits and upon such conditions as shall be approved in writing by the Minister; and such approval may be given either generally or with respect to any particular councils or with respect to the councils in any particular area.

Accounts to be kept

62. Every council shall keep proper accounts and other records in relation thereto and immediately after the end of each financial year shall cause its accounts for that year to be brought to a balance and a balance sheet to be prepared with respect thereto, together with a statement or abstract of such accounts.

Financial Instructions

63. The Minister shall issue written instructions (to be called Financial Instructions) not inconsistent with this Ordinance, for regulating and for controlling the making of receipts and payments of councils, for regulating and controlling operation of the bank accounts of councils and for the better control and management of the financial business of councils; and such instructions may be issued either generally or with respect to any particular council or with respect to the councils in any particular area and shall be observed and obeyed by the council or councils with respect to which such instructions have been issued.

Estimates of councils

64. (1) Every council shall, not less than 2 months before the expiry of each financial year, pass detailed estimates of revenue and expenditure of the council for the next financial year.

(2) Such estimates shall be passed by formal resolution at a meeting of the council specially convened for the purpose and shall be submitted to the Minister for approval as soon as possible thereafter.

(3) The Minister may either approve or disapprove such estimates as a whole or disapprove, amend or reserve any item or items contained therein and shall notify the council accordingly:

Provided that, if such notification is not received by the council before the commencement of the financial year for which such estimate is prepared, the council may incur expenditure on recurrent heads of expenditure in accordance with the approved estimates for the previous year.

(4) Where it appears to a council in any financial year that expenditure for any specified purpose is desirable and no or insufficient provision therefor has been made in the estimates for such year, a council may submit an application for supplementary expenditure to the Minister for approval. The Minister may either approve or disapprove such application as a whole or disapprove, amend or reserve any item or items contained therein and shall notify the council accordingly and may, within such limits and subject to such conditions as he may think fit, by Financial Instructions issued under section 63 confer on a public officer any of the powers exercisable by him under this subsection.

(5) No council shall collect revenue or incur expenditure which has not been approved in accordance with this Ordinance except with the sanction of the Minister; and any council member, officer or servant who has applied or connived at or concurred in the collection or application of moneys for purposes which have not been lawfully approved shall be liable to be surcharged and to account for such moneys.

(6) The annual estimates and all supplementary estimates shall be submitted in such form and manner and shall contain such information as may be specified in Financial Instructions issued under section 63.

65. A joint committee appointed under section 32 (2) may, with the approval of and subject to any conditions imposed by the councils appointing the committee, operate a fund in accordance with this Part and to such extent such committee shall be deemed to be a council. Joint funds

66. The Minister may authorise any person to have access to the records of any council; and any person so authorised shall at all reasonable times have access to and be entitled to inspect all books, accounts and records of the council and may advise the council thereon and submit reports to the Minister in connection therewith. Access to records of councils

67. The powers conferred and the duties imposed by this Part shall be in addition to and shall in no way derogate from the powers conferred and the duties imposed by the Public Finance (Control and Audit) Ordinance. Audit of accounts
Cap. 79

68. The Director of Audit shall transmit to the Minister and to the Minister responsible for finance together with every report prepared by him on the examination and audit of the accounts kept by a council the annual statement or abstract of such Transmission of reports, etc.

accounts prepared under section 62 and shall transmit a copy of every report to the council.

Powers and
duties of
Director of
Audit

69. (1) The Director of Audit at every audit held by him may—

- (a) disallow any item of expenditure which is contrary to law;
- (b) surcharge the amount of any expenditure disallowed upon the person responsible for incurring or authorising the expenditure;
- (c) surcharge any sum which has not been duly brought into account upon the person by whom that sum ought to have been brought into account;
- (d) surcharge the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred:

Provided that no item of expenditure incurred by a council shall be disallowed by the Director of Audit if it has been sanctioned by the Minister.

(2) It shall be the duty of the Director of Audit—

- (a) to certify the amount due from any person upon whom he has made a surcharge; and
- (b) to certify at the conclusion of the audit his allowance of the accounts, subject to any disallowances or surcharges which he may have made.

Special relief
for officers
and servants

70. Notwithstanding section 69, no liability to surcharge shall be incurred by an officer or servant of the council who can prove to the satisfaction of the Director of Audit that he acted in pursuance of and in accordance with the terms of a resolution of the council or a committee duly appointed by the council or on instructions of any officer of the council to whom he is subordinate.

Director of
Audit may
take evidence
Cap. 79

71. (1) For the purposes of any examination under this Part the Director of Audit or other person duly authorised by him under section 30 (1) (b) of the Public Finance (Control and Audit) Ordinance may take evidence and examine witnesses upon oath or affirmation (which oath or affirmation the Director of Audit or other person so authorised is hereby empowered to administer) and may, by summons under his hand, require all such persons as he may think fit to appear personally before him at a time and place to be stated in such summons and to produce all such books and papers, including the minutes of the proceed-

ings of the council or of any committee thereof, as he may consider necessary for such examination:

Provided that no person shall be bound to incriminate himself and every witness shall in respect of any evidence given by him before the Director of Audit or other person so authorised be entitled to the same privileges to which he would have been entitled if giving evidence before a court.

(2) Any person who, when so required, without reasonable excuse—

- (a) neglects or refuses to comply with the terms of such summons; or
- (b) having appeared, refuses to be examined on oath or affirmation or to take such oath or affirmation; or
- (c) having taken such oath or affirmation, refuses to answer such questions as are put to him,

shall be liable for every such neglect or refusal, to a fine of \$100, or in default of payment, to imprisonment for 3 months.

72. Every sum certified by the Director of Audit to be due from any person shall be paid by that person to the council concerned within 60 days after it has been so certified or, if an appeal with respect to that sum has been made, within 30 days after the appeal is finally disposed of or abandoned or fails by reason of the non-prosecution thereof.

Payment of
sums certified
to be due

73. (1) Any sum which is certified by the Director of Audit to be due and has become payable shall, on complaint made by the council be recoverable by the council as a civil debt.

Recovery of
sums certified
to be due

(2) In any proceedings for the recovery of such a sum a certificate signed by the Director of Audit shall be conclusive evidence of the facts certified and a certificate signed by the president of the council concerned or other officer whose duty it is to keep the accounts that the sum certified to be due has not been paid to him shall be conclusive evidence of non-payment, unless it is proved that the sum certified to be due has been paid since the date of the certificate.

(3) Unless the contrary is proved, a certificate purporting to be signed by the Director of Audit or the president of the council or other officer whose duty it is to keep the accounts shall be deemed to have been signed by the Director of Audit, president or other officer, as the case may be.

Appeals
against deci-
sions of
Director of
Audit

74. (1) Any person who is aggrieved by a decision of the Director of Audit on any matter with respect to which he made an objection at the audit and any person aggrieved by a disallowance or surcharge made by the Director of Audit may appeal to a magistrates' court, unless such decision, disallowance or surcharge relates to an amount exceeding \$3,000, in which case an appeal shall be to the High Court:

Provided that no appeal shall be allowed unless, within 60 days of the date of decision or the certificate of disallowance or surcharge of the Director of Audit, as the case may be, the appellant serves upon the Director of Audit a notice of appeal and files such appeal in the magistrates' court or the High Court, as the case may be, in conformity with any rules of court relating thereto.

(2) A magistrates' court or the High Court on such appeal shall have power to confirm, vary or quash the decision of the Director of Audit and to remit the case to the Director of Audit with such directions as it thinks fit for giving effect to the decision on appeal; and, if the decision of the Director of Audit is quashed or is varied so as to reduce the amount of surcharge to \$200 or less, the appellant shall not be subject by reason of the surcharge to the disqualification imposed by section 9 or section 11.

Publication
of statement
of accounts
and report of
Director of
Audit

75. Every council shall, within 6 months of the receipt of the Director of Audit's report, at its own offices publish—

- (a) the annual balance sheet and statement or abstract of accounts prepared under section 62; and
- (b) any report on such accounts and statement or abstract transmitted by the Director of Audit under section 68.

PART VIII

RATES

Rating
authority

76. For the purposes of this Ordinance every council shall be the rating authority for the area of its authority and, subject to section 57 or except as may be otherwise specifically provided in this or any other Ordinance, no authority other than the council shall have power to make or levy any rate in the area of authority of such council, notwithstanding any customary law to the contrary.

Types of rate

77. (1) Subject to the approval of the Minister and to any regulations made under section 79, a council may make and levy annually general rates based on any one or more of the following systems, that is to say—

- (a) a rate, which may be referred to as the basic rate, at a uniform or graduated amount per capita on all persons of or above the age of 18 years being persons resident within the area of its authority;
- (b) a rate at a uniform amount per dollar on the assessed value of immovable property situated within the area of its authority or any part of such area;
- (c) a rate assessed on the possessions or any category of possessions of persons within the area of its authority or any part of such area.

(2) In addition to making and levying a general rate under subsection (1) a council may, subject to the approval of the Minister and to any regulations made under section 79, make and levy a rate, which may be referred to as a special rate, at a uniform or graduated amount per capita on any person or class of person resident within the area of its authority or any part of such area in order to provide for some specific purpose within such area or any part of such area; and may make and levy a rate, which may be referred to as a water rate.

78. Unless a formal resolution to refrain from so doing shall have been passed by the council and approved by the Minister, every council shall make and levy one or more of the rates specified in section 77 (1), as will be sufficient to provide for such part of the total estimated expenditure to be incurred by the council during the period in respect of which the rate is made as is to be met out of moneys raised by rates, together with such additional amount as is, in the opinion of the council, required to cover expenditure previously incurred or to meet contingencies or to defray any expenditure which may fall to be defrayed before the date on which the money to be received in respect of the next subsequent rate will become available.

Duty to make rates

79. Subject to section 80, the Minister may make regulations providing generally for the making and levying of rates by any council on persons resident or temporarily resident in the area of authority of such council and, without prejudice to the generality of the foregoing, providing in particular for—

Rating regulations

- (a) the basis and incidence of any rate to be levied under section 77;
- (b) the notice to be given by a council of its intention to make and levy a rate;
- (c) the procedure for the appointment of assessment committees appointed under section 91 and the procedure, powers and duties of such committees;

- (d) the method of assessment of property or possessions for the purposes of any rate to be levied under this Ordinance;
- (e) the hearing of appeals against any such assessment;
- (f) the preparation of rating rolls and the rendering of returns by or the registration of persons liable to pay any rate;
- (g) the dates and places for the payment of any rate;
- (h) to whom payment shall be made;
- (i) the exemption of any category of persons from liability to pay the whole or any part of any rate;
- (j) the imposition of pecuniary penalties for non-payment or late payment of any rate.

Basic rate

80. (1) Notwithstanding any regulations made under section 79, this section shall apply to the making, levying and payment of a basic rate imposed under section 77 (1) (a).

- (2) (a) Any person of or above the age of 18 years shall on the 1st January in every year or 1 month after the publication by the council of a notice given under regulations made hereunder of the basic rate to be levied, whichever is the later, become liable, unless generally or specifically exempted, to pay the basic rate (if any) imposed by the council in the area of authority of which he is a person resident on such 1st January.
 - (b) Any person who, being so liable, fails to pay such basic rate on or before the 30th June in the year to which the rate relates or 6 months after the publication of the notice referred to in paragraph (a), whichever is the later, shall become liable in addition, unless generally or specifically exempted, to pay a penalty of \$2.
- (3) (a) Notwithstanding subsection (2), any person temporarily resident in the area of authority of a council which has imposed a basic rate may, in lieu of paying the basic rate of the council to which he is liable under subsection (2) (a), pay the basic rate of the council in the area of authority of which he is temporarily resident; and such council shall remit such basic rates, less a collection fee not exceeding 10 per cent of the rate, to the council in the area of authority of which such person is a person resident.
- (b) Any person temporarily resident in the area of authority of a council who, being liable to pay, fails on or before the 30th June or 6 months after the publication of the notice referred to in subsection (2) (a), whichever is the later, to pay either the basic rate to which he is liable under subsec-

tion (2) (a) or the basic rate of the council in the area of authority of which he is temporarily resident under paragraph (a) of this subsection, shall become liable, unless generally or specifically exempted, to pay the basic rate of the council in the area of authority of which he is temporarily resident at any subsequent date together with any penalty accruing thereon; and such council shall remit the rate less any penalty accruing thereon (which may be retained by such council) to the council to which the basic rate was due and payable under subsection (2) (a).

(4) Notwithstanding the other provisions of this section, a person visiting the Gilbert Islands for a period of less than 6 months shall not be liable to pay a basic rate.

81. (1) (a) Subject to any regulations made under section 79, it shall be the duty of every person liable to pay any rate to a council to pay the amount of such rate to a rate collector or other person duly appointed or authorised by the council concerned to collect and receive the same at such time and at such place as may from time to time be specified by the council. Payment of rates
- (b) If no person has been appointed or authorised to collect and receive rates, the payment of rates shall be made to the executive officer to the council.
- (c) If no time nor place for payment shall have been specified the time shall be deemed to be on or before the 30th April in every year and the place shall be deemed to be the usual place of office of the executive officer to the council.

(2) For the purposes of any proceedings for the recovery of any rate imposed under this Ordinance, if any question arises as to whether or not a person is under a specified age, or resides in the area of authority of any particular council, or has or has not any income of any particular amount, the burden of proving that he is under such age, or does not so reside, or has no such income shall lie upon the person alleging the same.

82. (1) Notwithstanding any other provision of this Ordinance, if any person, who would otherwise be liable for payment of a basic rate to any council, produces to the executive officer to such council or to a rate collector appointed by such council a valid receipt issued by or on behalf of any other council in evidence of the payment by him of a basic rate levied by such other council for the current year, being a basic rate which he was liable to pay under this Ordinance, he shall be deemed not to be liable Exemptions from and remissions of rates

for payment of the basic rate for such year levied by such first-mentioned council.

(2) The following tenements shall be exempt from assessment and rating under this Ordinance—

- (a) lands and buildings appropriated exclusively for the purpose of public worship;
- (b) cemeteries and burial grounds;
- (c) charitable and educational institutions; and
- (d) any other immovable property specifically or generally exempted by the Minister by order.

(3) A council may reduce or remit payment of any rate on account of the poverty of any person liable to the payment thereof or for any other good reason.

(4) Subject to any regulations made under section 79 a council may exempt women from the liability to pay any rate.

Claim for
amount of
rate

83. If any person fails to pay any rate for which he is liable on or before the date on which it is payable, the council concerned may recover the same as a civil debt together with such costs and such penalty as may be prescribed under this Ordinance or any regulations made thereunder:

Provided that no demand shall be made for any rate or penalty nor shall any proceedings for the recovery thereof be commenced more than 3 years after the date on which such rate became due and payable.

Evidence of
rate

84. In any proceedings to recover a rate levied under this Ordinance the rate books and other records of the council concerned and all certified copies of entries made therein purporting to be signed by the president of the council shall, upon production thereof, be *prima facie* evidence of such rate and of the matters stated therein without further evidence that the requirements of this Ordinance have been complied with:

Provided that it shall be competent for any person proceeded against to offer evidence to prove the contrary.

Penalty for
refusal to pay
rates and wil-
ful misrepres-
entation

85. (1) Any person who, without lawful justification or excuse, the proof of which shall lie on the person charged, refuses or wilfully neglects to pay any rate payable by him under the provisions of this Ordinance shall be liable to a fine of \$100 and to imprisonment for 6 months.

(2) Any person who wilfully misrepresents in any way his rateable capacity shall be liable to a fine of \$100 and to imprisonment for 6 months.

(3) The conviction of any person of an offence under subsection (1) shall not affect, bar, prejudice or limit the power to bring any civil proceedings for the recovery of any rate under section 83; and a person so convicted shall remain liable for the payment of such rate notwithstanding that he has paid any fine or served any sentence imposed upon such conviction; nor shall such conviction affect, bar, prejudice or limit the power to lay a further charge under subsection (1) for a separate offence of refusal or wilful neglect to pay such rate subsequent to the date of such conviction.

86. Any person who, without lawful justification or excuse, the proof of which shall lie on the person charged, incites any person to refuse to pay any rate payable by him under the provisions of this Ordinance or who incites or assists any person to misrepresent in any way his or any other person's rateable capacity shall be liable to a fine of \$200 and to imprisonment for 12 months.

Penalty for inciting a person to refuse to pay rates

87. Any person who—

- (a) not being authorised under this Ordinance or by the Council concerned so to do, collects or attempts to collect any rate imposed under this Ordinance; or
- (b) collects or attempts to collect any rate other than a rate prescribed in this Ordinance or authorised by any other Ordinance,

Penalty for unauthorised collection of rates

shall be liable to a fine of \$200 and to imprisonment for 6 months.

88. (1) Any person who may be required so to do shall give all such information as may reasonably be required of him by any council, rate collector or assessment committee for the purpose of obtaining information for the assessment or collection of a rate.

Duty to give information

(2) Any person having been required to give information under subsection (1) who wilfully misleads or attempts to mislead any council, rate collector or assessment committee or their agents on any matter connected with the collection of a rate shall be liable to a fine of \$100 and to imprisonment for 6 months.

(3) Any person having been required to give information under subsection (1) who refuses or wilfully neglects to give such information shall be liable to a fine of \$100 or, in default of payment, to imprisonment for 6 months.

Rate collec-
tors

89. (1) A council may in writing appoint any suitable person to be a rate collector in respect of any specified area within the council's area of authority.

- (2) It shall be the duty of every rate collector—
- (a) to furnish orally or in writing to the council concerned a nominal roll of all rateable persons or immovable property, as the case may be, in the area for which he has been appointed;
 - (b) to collect and receive from each person liable for the payment of rates in the area to which he has been appointed the rates payable by each such person;
 - (c) to pay all amounts so collected to the council concerned; and
 - (d) to report to the council concerned the name of any person who has failed to pay the amount due from him for rates.

Offences by
rate collec-
tors

90. Any rate collector who—

- (a) fails to deposit with the council concerned any sum of money collected by him as rates; or
- (b) knowingly demands from any person an amount in excess of the duly assessed rates; or
- (c) knowingly or recklessly renders false returns, whether orally or in writing, of the number of ratepayers or the amounts of rates collected or received by him; or
- (d) wilfully fails to carry out any duty imposed upon him as a rate collector by section 89 (2),

shall be liable to a fine of \$200 and to imprisonment for 12 months.

Assessment
committees

91. A council may appoint such assessment committee or committees as it thinks fit for the purpose of assessing the liability of any person or persons for payment of any rate levied or to be levied under the provisions of this Ordinance.

Legal pro-
ceedings

92. Proceedings for the recovery of any rate or penalty under this Part may, without prejudice to the right of any other person or authority to institute criminal proceedings, be taken by the president of the council responsible for the collection of the rate or by any other person duly appointed by him in that behalf.

PART IX

OFFICERS AND STAFF, ETC.

93. The Minister after consultation with the council concerned may appoint from among public officers one or more executive officers to each council and the sole or senior executive officer to a town or urban council shall be called the clerk to the council.

Executive
officers of
councils

94. (1) The Minister after consultation with the council concerned may appoint from among public officers a treasurer to a town or urban council who shall be called the council treasurer.

Other staff

(2) Subject to any instructions under section 101, a council may appoint such other officers in addition to those appointed by the Minister under this section and employ such other persons as it shall think necessary for the efficient discharge of its functions and may, subject as aforesaid, dismiss any officer so appointed or other person so employed.

(3) A council may, subject to any instructions as aforesaid, pay to any officer appointed or other person employed under this section such reasonable remuneration as it may determine:

Provided that no council shall pay any remuneration to any such officer or other person whose remuneration is paid by the Government.

95. (1) Subject to the approval of the Minister, a council may agree with any one or more councils on the joint employment of any staff or the appointment of any officer.

Joint
appointments
and employ-
ment by
councils

(2) Where the Minister deems it expedient so to do, he may require any 2 or more councils to concur in the joint employment of any staff or the joint appointment of any officer and, if any such council fails to employ or appoint any person when required to do so under this subsection, the Minister may exercise, on behalf of such council, the powers of employment and appointment conferred on a council by this Ordinance. Joint employment under this section may include joint employment during any period of training, instruction, sickness or leave.

96. Any officer or employee of a council who is in any wise concerned or interested directly or indirectly by himself or his partner (otherwise than as a minority shareholder in a company) in any contract or work made with or executed for the council shall forthwith declare such concern or interest to the council:

Interest of
officer in con-
tract

Provided that this section shall not apply to an interest in a contract or other work which an officer or employee of a council may have as a ratepayer or inhabitant of the area.

Appointment
of seconded
public
officers

97. Notwithstanding the other provisions of this Part a council may, with the approval of the Minister and with the consent of the officer concerned, appoint to any office in its service a public officer seconded to the service of the council for that purpose, for such period and on such terms and conditions as the Minister may approve.

Security may
be demanded
of officers

98. With the approval of the Minister, a council may, in the case of an officer or person, other than a public officer appointed under section 97, in its employment, whether under this or any other Ordinance and whether appointed or employed jointly with another council or not, or, in the case of a person not in its employment but who is likely to be entrusted with the custody or control of money or property belonging to the council, either require him to give or itself take such security for the faithful execution of his office and for his duly accounting for all money or property which may be entrusted to him as the council thinks sufficient.

Account-
ability
of officers

99. (1) Every officer employed by a council, whether under this or any other Ordinance, shall, at such times during the continuance of his office or within 3 months after his ceasing to hold it and in such manner as the council directs, make out and deliver to the council, or as it directs, a true account in writing of all money and property committed to his charge and of his receipts and payments, with vouchers and other documents and records supporting the entries therein, and a list of persons from whom or to whom money is due in connection with his office, showing the amount due from or to each.

(2) Every such officer shall pay all money due from him to the council, or otherwise as such council may direct.

(3) If any such officer—

- (a) refuses or wilfully neglects to make any payment which he is required by this section to make; or
- (b) after 3 days' notice in writing signed by the president of the council or by 3 members thereof and given or left at his usual or last known place of residence, refuses or wilfully neglects to make out or deliver to the council, or as it directs, any account or list which he is required by this section to make out and deliver, or any voucher or other

document or record relating thereto, or to give satisfaction respecting it to the council, or as it directs,

a magistrates' court may, on complaint, order him to make such payment or delivery or to give such satisfaction.

(4) Any person who fails to comply with any such order shall be liable to a fine of \$100 and to imprisonment for 6 months.

(5) Nothing in this section shall affect any remedy by action against any such officer or his surety, except that the officer shall not be both sued by action and proceeded against under the provisions of this section for the same cause.

100. Subject to any instructions issued under section 101, the president of a council may interdict any officer or employee of the council from the duties and emoluments of his office or employment for incapacity, neglect or misconduct, pending the decision of the council as to his removal and, in the event of his removal, such officer or employee shall be deemed to have been removed from office or employment as from the date of such interdiction.

Powers of
interdiction

101. Subject to this Ordinance, the Minister may issue written instructions (to be called Staff Instructions) providing, either generally or in relation to any particular council, officer or employee, for the employment, control and conditions of service of officers and employees of councils generally, or any one or more of such officers or employees in particular and such instructions shall be binding on all councils to whom they are directed. Without prejudice to the generality of the foregoing, such instructions may—

Staff Instruc-
tions

- (a) provide for maintaining discipline, including withholding or deferring of increments, or reduction in rank or salary, or deductions from salary in respect of damage to or loss of property of the council by misconduct or breach of duty;
- (b) require, direct and regulate appointments, remuneration, promotion, termination of appointments, interdiction, suspension from duty, dismissals and leave;
- (c) provide for regulating the rates, conditions and payment of allowances and gratuities granted, subject to the approval of the Minister under section 102 (2), the grant of advances and the terms and conditions of service generally;
- (d) such other matters relating to departmental procedure and the duties and responsibilities of officers and employees as the Minister considers can best be regulated by such instructions.

Pensions,
gratuities and
allowances

102. (1) The Minister may make regulations providing for the establishment of a fund, or funds, for the payment of pensions, gratuities and allowances to officers and persons who have been employed by any council or councils, or to the legal personal representatives, estates or dependants of such officers and persons. Without prejudice to the generality of the foregoing, such regulations may provide—

- (a) for the investment, management and regulation of the fund or funds and the income arising therefrom;
- (b) for the fund or funds to be maintained and controlled by a board, or by any other body or persons;
- (c) for contributions to the fund or funds to be made by councils or by officers or persons employed by such councils;
- (d) for the circumstances in which pensions, gratuities and allowances may be paid from such fund or funds; and
- (e) for the rates or amounts of such pensions, gratuities and allowances.

(2) Subject to the approval of the Minister, a council may grant gratuities and allowances to officers and persons who have been employed by the council or to the legal personal representatives, estates or dependants of such officers and persons.

Attachment
of pensions,
gratuities or
allowances

103. No pension, gratuity or other allowance granted in pursuance of this Part shall be assignable or transferable, or liable to be attached or sequestered, or levied upon, for or in respect of any debt or claim whatsoever:

Provided that this section shall not affect the right of the council or the Government to recover from any sums due or payable to or in respect of any officer or employee any amount owing to the council or the Government by such officer or employee.

Protection of
council
members,
officers and
employees

104. No matter or thing done and no contract entered into by a council and no matter or thing done by any member, officer or employee of a council or other person whomsoever acting under the direction of a council shall, if the matter or thing was done or the contract was entered into *bona fide* for the purposes of this Ordinance, subject any member, officer or employee of the council or any person acting under the direction of the council personally to any action, liability, claim or demand whatsoever.

PART X

LEGAL PROVISIONS

105. (1) No suit shall be commenced against a council until 1 month at least after written notice of intention to commence the same has been served upon the council by the intending plaintiff or his agent.

Notice of suit to be given by plaintiff

(2) Such notice shall state the cause of action, the name and address of the intending plaintiff and the relief which he claims.

106. When any suit is commenced against any council for any act done in pursuance or execution of an Ordinance or of any public duties or authority, or in respect of any alleged neglect or default in the execution of any such Ordinance, duty or authority, such suit shall not lie or be instituted unless it is commenced within 12 months next after the act, neglect or default complained of or, in the case of a continuance of damage or injury, within 12 months next after the ceasing thereof.

Limitation of suits against councils

107. In any prosecution by or on behalf of a council and in any civil cause or matter in which a council is a party the council may be represented by any member, officer or employee duly authorised in that behalf by the council.

Appearance of council in legal proceedings

108.* The notice referred to in section 105 and any summons, notice or other document authorised to be served on a council in connection with any suit by or against such council shall be served by delivering the same to or by sending it by registered post addressed to the president at the principal office of the council:

Mode of service on council

Provided that the court may with regard to any particular suit or document order service on the council to be effected otherwise and in that case service shall be effected in accordance with the terms of such order.

109. Wherever in any criminal process or proceeding it is necessary to refer to the ownership or description of property belonging to or under the management of a council, such property may be described as the property of the council.

Description of property

110. In any proceedings instituted by or against a council it shall not be necessary to prove the corporate name of the council or the constitution and limits of its area.

Name of council, etc. need not be proved

Onus of
proof in cer-
tain cases

111. Where in any proceedings under this Ordinance any person is summoned or otherwise dealt with as the occupier of any premises or lodging and such person shall allege that he is not the occupier, the proof of such allegation shall be upon such person.

Powers of
entry

112. Subject to this or any other Ordinance, any member, officer or servant of a council duly authorised in writing for the purpose by the council may, at all reasonable times and, if required, upon production of his authority, enter into or upon any land, buildings or premises within the area in which such council is established for the purpose of carrying out any inspection, inquiry or the execution of works under the provisions of this Ordinance or of any regulation, bye-law or order made under the provisions of this Ordinance.

Publication
of notices

113. Save as in this Ordinance is otherwise expressly provided, the publication of any notice or other document required by this Ordinance to be published shall be deemed to be duly made if it is fixed, for a reasonable time, in some conspicuous place on or near the outer door of the office of the council during office hours and also in some other conspicuous place or situation within the area of the authority of the council.

Service of
notice by the
council

114. (1) Subject to this section, any notice, order or other document required or authorised by this or any other Ordinance to be served by or on behalf of a council or by an officer of the council on any person shall be deemed to be duly served—

- (a) where the person to be served is a company, if the document is addressed to the secretary of the company at its registered office or at its principal office or place of business and is either—
 - (i) sent by registered post; or
 - (ii) delivered at the registered office or at the principal office or place of business of the company;
- (b) where the person to be served is a partnership, if the document is addressed to the partnership at its principal place of business, identifying it by the name and style under which its business is carried on, and is either—
 - (i) sent by registered post; or
 - (ii) delivered at that office;
- (c) where the person to be served is a public body, a local authority, or a corporation, society or other body, if the document is addressed to the clerk, president, secretary, treasurer or other principal officer of that body, authority, corporation or society at its principal office and is either—

- (i) sent by registered post; or
 - (ii) delivered at that office;
- (d) in any other case, if the document is addressed to the person to be served and is either sent to him by registered post or delivered at his usual residence or place of business.
- (2) Any document which is required or authorised to be served on the owner or occupier of any premises may be addressed to "the owner" or "the occupier", as the case may be, of those premises (naming them) without further name or description, and shall be deemed to be duly served—
- (a) if the document so addressed is sent or delivered in accordance with subsection (1) (d); or
 - (b) if the document so addressed or a copy thereof so addressed is affixed to some conspicuous part of the premises.
- (3) Where a document is served on a partnership in accordance with the provisions of this section, the document shall be deemed to be served on each partner.
- (4) For the purpose of enabling any document to be served on the owner of any premises, the council may by notice in writing require the occupier of the premises to state the name and address of the owner thereof; and if the occupier refuses or wilfully neglects to do so or wilfully mis-states the name and address of the owner he shall, unless in the case of a refusal he shows cause to the satisfaction of the court for his refusal, be guilty of an offence and shall be liable in respect of each offence to a fine of \$20 or, in default of payment, to imprisonment for 6 weeks.
- (5) In this section the word "document" means any notice, order or other document which is required or authorised to be served as specified in subsection (1).

115. (1) Every notice, order or other document requiring authentication by a council shall be deemed to be sufficiently authenticated if signed by the executive officer to the council or by any member or other officer of a council duly authorised in that behalf by the president or by the council.

Authentication
and execu-
tion of docu-
ments

(2) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed on behalf of a council by any person generally or specifically authorised by such council for that purpose.

(3) Any document purporting to be a document duly executed

or issued under the seal of a council or on behalf of a council shall, unless the contrary is proved, be deemed to be a document so executed or issued, as the case may be.

PART XI

MISCELLANEOUS

Powers of council may be conferred upon public officer in certain circumstances
Schedule

116. (1) The Minister may by order confer on any public officer in any area in which there is no council for any reason, power to perform all or any of the functions listed in the Schedule and to give any necessary orders for the purpose of carrying into effect any such function; and any person failing to comply with any order of such public officer made in exercise of the power conferred upon him by this section shall be liable to a fine of \$20 or, in default of payment, to imprisonment for 6 weeks and, in the case of continuing offence, further penalty of \$2 for each day on which the offence is continued after written notice of the offence has been served on the offender.

(2) Notwithstanding the other provisions of this Ordinance, where the warrant establishing a council is cancelled under section 3, the moneys in the general fund of such council shall thereupon vest in the Minister and may be expended by him for any purpose which could have been approved by such council had its warrant not been cancelled, or he may pay the whole or any portion of such moneys to such council or councils as he may determine.

Transfer of powers of public officers to councils

117. A council may exercise any powers and may perform any duties, for the time being vested in or imposed upon any public officer, which the Minister may by order declare to be exercisable by such council; and such council may thereupon authorise any officer or servant in its employ to exercise such powers.

Determination of age

118. (1) Where for the purposes of the imposition or collection of rates under Part VIII any question shall arise as to the age of any person the age of such person shall be determined by the rate collector concerned. In determining the age of any person, the rate collector concerned shall determine such age to be the person's apparent age, unless such person shall prove to the satisfaction of such rate collector (the onus whereof shall lie on such person) that his age is an age other than his apparent age.

(2) Any question as to the age of any person arising in the

Application of any regulations, bye-laws or orders made under the provisions of this Ordinance shall be determined by such person as may be authorised in that behalf by such regulations, bye-laws or orders.

(3) Any person who is aggrieved by a determination made under subsection (1) or (2) may appeal to the Minister whose decision shall be final.

119. Any person who—

- (a) wilfully obstructs any member, officer or servant of a council in the execution of his duty as such; or
- (b) being the occupier of any premises, prevents the owner of such premises from complying with any requirements of a council,

Obstruction
of officers,
etc.

shall be liable to a fine of \$50 and to imprisonment for 3 months.

120. (1) Any person who—

- (a) having been elected as a member of a council but not having been, at the time when he was elected, qualified to be so elected, sits or votes in the council; or
- (b) sits or votes in a council after his seat therein has become vacant or he has become disqualified from sitting or voting therein,

Penalty for
unqualified
person sitting
or voting

knowing, or having reasonable grounds for knowing, that he was so disqualified or that his seat had become vacant, as the case may be, shall be liable to a penalty of \$2 for every day upon which he so sits or votes.

(2) Such penalty shall be recoverable by action at the suit of the council concerned.

121. It shall be the duty of every council to furnish the Minister with such information as he may require in relation to the provisions of this Ordinance.

Supply of
information

122. (1) Any person who is convicted of an offence under this Ordinance for which no other penalty is expressly provided shall be liable to a fine of \$20 or, in default of payment, to imprisonment for 6 weeks, and, in the case of a continuing offence, a further penalty of \$2 for each day on which the offence is continued after written notice of the offence has been served on the offender.

General pen-
alty

(2) In addition to any penalty imposed under subsection (1) any expense incurred by a council in consequence of the commis-

sion of an offence under this Ordinance shall be paid by the person committing such offence and shall be recoverable as a civil debt by the council.

Regulations
applying
within area of
authority of
any council

123. Notwithstanding the other provisions of this Ordinance, the Minister may make regulations which shall apply within the area of authority of any council for the better carrying into effect of the foregoing provisions of this Ordinance.

Island regula-
tions

124. (1) The Minister may make regulations which shall apply to any island specified in such regulations, not being within or partly within the area of authority of any council, relating to any of the following matters—

- (a) the keeping clean of the island and the promotion of public health;
- (b) the maintenance of peace, order and public safety;
- (c) the social and economic betterment of the native population;
- (d) the control of livestock;
- (e) the prevention or abatement of public nuisances;
- (f) the care and welfare of children and aged persons;
- (g) the conservation of food supplies;
- (h) fishing and fishing rights; and
- (i) the promotion of the general welfare of the native inhabitants.

(2) Regulations made under the provisions of this section may provide for penalties in respect of offences not exceeding a fine of \$10 or imprisonment for a term of not more than 3 months.

(3) No regulations made under the provisions of this section shall come into effect in respect of any particular island to which such regulations apply until such regulations have been published and exhibited outside the office, building or other place used by the administrative officer in charge of the district in which such island is situated for the conduct of official business on that island.

Crown rights

125. Save as is otherwise expressly provided, nothing in this Ordinance shall affect prejudicially any estate, right, privilege or exemption of the Crown.

SCHEDULE

(Sections 45 and 116)

FUNCTIONS OF COUNCILS

1. Agriculture, Livestock and Fisheries—

- (a) to provide services for the improvement of agriculture;
- (b) to control plant diseases, weeds and pests;
- (c) to control or exterminate insect, animal or other pests detrimental to crops;
- (d) to control methods of husbandry;
- (e) to regulate areas and methods of planting and types of crops and trees;
- (f) to provide service for the improvement of livestock;
- (g) to prohibit, restrict or regulate the movement of livestock in or through the council area;
- (h) to prohibit, restrict and regulate the keeping of livestock of any description;
- (i) to establish, maintain and control pounds, seize and impound any stray animal, and provide for the payment of compensation for damage done by such animal;
- (j) to prohibit cruelty to animals and any specified acts of cruelty to animals;
- (k) to establish, erect, maintain and control slaughter houses;
- (l) to provide for the control, destruction and licensing of dogs;
- (m) to prevent and control the outbreak or the prevalence of any disease among animals;
- (n) to provide for the improvement and control of fishing and related industries;
- (o) to prohibit, restrict or regulate the hunting, capture, killing or sale of animals, reptiles, birds or fish or any specified kind of animal, reptile, bird or fish.

2. Buildings and Town or Village Planning—

- (a) to regulate and control the erection and construction, demolition, re-erection and reconstruction, conversion and re-conversion, alteration, repair, sanitation and ventilation of public and private buildings and structures;
- (b) to provide for building lines and the layout of buildings;
- (c) to make advances upon such conditions as may be approved by the Minister for the purpose of enabling persons to build or buy dwelling-houses;
- (d) to prepare and undertake or otherwise control schemes for improved housing layouts and settlements;
- (e) to prescribe the conditions to be satisfied by a site for any building or for any class of building;
- (f) to prohibit the construction of any new building unless and until the approval of the council has been obtained;
- (g) to provide for the demolition of dangerous buildings and for the recovery of any expenses incurred in connection therewith;

- (h) to prohibit or regulate the use in any defined area of any inflammable material in the construction or repair of any building;
- (i) to build, equip and maintain social or sporting centres, public libraries and museums, communal feeding centres, restaurants, rest houses, or buildings designed and used for public or educational purposes;
- (j) to build, equip, maintain and let shops;
- (k) to prohibit or regulate the making of *babai-pits* or other excavations;
- (l) to control and regulate the siting of advertisements and hoardings or other structures designed for the display of advertisements;
- (m) to regulate the use of natural building and construction materials;
- (n) to establish, erect and maintain public monuments and to make collections of money towards the establishment or maintenance thereof;
- (o) to restrict the use of barbed wire and the use of broken glass or the like on fences and walls;
- (p) to name streets and public places;
- (q) to lay out and adorn any public place by any architectural scheme or ornamentation, including the erection of statues, fountains or other structures.

3. Education—

- (a) to build, equip, maintain or manage any kindergarten, primary school or any other class of school which may be approved by the Minister;
- (b) to grant sums of money towards the establishment, equipment or maintenance of any primary school or any other class of school which may be approved by the Minister;
- (c) to grant and maintain scholarships or bursaries to suitable persons to attend any school or other educational institution in the Gilbert Islands or elsewhere;
- (d) to provide for the compulsory education of children or of specified categories of children between the ages of 5 and 15 years;
- (e) to grant sums of money towards the establishment or maintenance of any public library or museum or to any association existing for the promotion of arts and crafts, or recreation and sport, or educational purposes generally.

4. Forestry and Trees—

- (a) to establish, preserve, maintain, improve and control tree nurseries, forests and woodlands and to sell the produce thereof;
- (b) to plant and tend trees in, and remove trees from, any public place.

5. Land—

- (a) to prevent and control erosion of land by the sea or other cause;
- (b) to provide for the fencing of land and for the maintenance and repair of such fencing;
- (c) to engage in and promote the reclamation of land from the sea.

6. Relief of Famine and Drought—

- (a) to regulate the areas and methods of planting and types of crops in areas which are liable to drought or famine.

7. Markets—

- (a) to build, equip, open, close and maintain markets, to prohibit the erection of stalls in places other than markets, and to prevent the sale and purchase of goods or stock near established markets;
- (b) to regulate and control markets, including the fixing of and collection of stallages, rents and tolls;
- (c) to fix the days and hours during each day on which a market may be held and to prevent the sale and purchase of goods in markets on any day or any hour except those fixed.

8. Public Health—

- (a) to safeguard and promote public health, including the prevention of and the dealing with any outbreak or the prevalence of any disease;
- (b) to regulate the number of persons permitted to reside in a building or room of any particular size, construction or design;
- (c) to build, equip and maintain, or grant sums of money towards the establishment, equipment or maintenance of any health centre or clinic, or any other medical institution which may be approved by the Minister;
- (d) to build, equip and maintain, or grant sums of money towards the establishment, equipment or maintenance of any institution or settlement for the aged, destitute or infirm or for orphans or lepers;
- (e) to exterminate and prevent the spread of mosquitoes, rats, bugs and other vermin;
- (f) to establish and operate ambulance services or to make grants towards such services;
- (g) to establish, maintain and carry out sanitary services for the removal and destruction of, or otherwise dealing with, all kinds of rubbish, refuse or excreta;
- (h) to control and provide for offences in respect of any act or omission by any member of the public detrimental to the sanitary condition of the council area or any part thereof;
- (i) to provide, erect and maintain a public water supply, and impose water rates;
- (j) to establish, maintain and control public wells, springs, bathing places, wash houses and swimming pools;
- (k) to regulate or prohibit the sinking of wells and provide for the closing of wells;
- (l) to prevent the pollution of any water, and to prevent access to any polluted source of water;
- (m) to regulate the production or preparation for sale and sale of foodstuffs, and to provide for the inspection of such foodstuffs and the places or premises used for their production, preparation or sale;
- (n) to establish, maintain and control cemeteries or burial grounds;
- (o) to provide for the cleaning and clearing of any public place.

9. Public Order, Peace and Safety—

- (a) to prohibit any act or conduct which is likely to cause a riot or any disturbance or any breach of the peace;
- (b) to prohibit, regulate or restrict the carrying or possession of weapons;

- (c) to prevent, abate and control fires;
- (d) to prohibit, control and restrict the storage of inflammable or offensive materials in any specified area;
- (e) to regulate the services of guides, porters and carriers;
- (f) to prevent and remove public nuisances;
- (g) to control the movement of beggars and vagrants in public places;
- (h) to regulate and control public collections in public places;
- (i) to prohibit, restrict, control or license hawking;
- (j) to control the movement of children and other young persons in public places during the hours of darkness.

10. Communications and Public Utilities—

- (a) to make, alter, divert and maintain roads, streets, parking areas, paths, culverts, causeways, bridges, drains and water-courses;
- (b) to provide or arrange for lighting in public places and to provide, construct and maintain an electricity supply;
- (c) to make, alter and maintain wharves and jetties;
- (d) to make, alter and maintain aerodromes;
- (e) to provide postal and wireless telegraphic services;
- (f) to erect and maintain navigational aids;
- (g) to establish, acquire and maintain transport services by land or water, including ferries;
- (h) to prohibit, restrict or control the access of motor traffic to any road or parking area maintained by the council and to impose speed limits in respect of any road maintained by the council;
- (i) to license bicycles;
- (j) to regulate or prohibit the planting, cutting or destruction of any trees or vegetation growing along any street, road, path or in any public place;
- (k) to provide that the owner or occupier, or several such persons jointly, of any land or tenements maintain, clear and keep free from vegetation and rubbish such land or tenements or the road, streets, paths or public places adjoining such land or tenements;
- (l) to prevent damage or obstruction to any roads, streets, paths, or open spaces maintained by the council.

11. Trade and Industry—

- (a) to establish, maintain and control collection centres, storage depots and processing services for agricultural produce;
- (b) to provide for the control, regulation, inspection, supervision and licensing of all places of entertainment and recreation, lodging and eating-houses, and any premises in which any profession, trade or business is carried on;
- (c) to provide for the control, regulation, supervision and licensing of any other occupation;
- (d) to prescribe the conditions under which any offensive trade or industry may be carried on.

12. Miscellaneous—

- (a) to establish, maintain and provide information and publicity services;

- (b) to require the marriage, birth or death of any person within the area of authority of the council to be reported to or registered with the council and to appoint registration officers and registrars for such purposes;
- (c) to promote and regulate the development of an arts and crafts industry;
- (d) to protect, preserve, prohibit or control the removal from any place of any antique artifact;
- (e) to establish, control and manage recreation grounds, open spaces and parks;
- (f) to provide for or grant sums of money towards the maintenance and welfare of children, young persons, the aged, destitute or infirm;
- (g) to enter any contract with any other council or with any other body or person to secure or further the carrying on of any work or undertaking which the council is authorised to carry on;
- (h) to fix tariffs or charges for services rendered in connection with the achievement of any of the council's purposes;
- (i) to perform any other function, whether similar to those enumerated in this Schedule or not, which may be specifically conferred upon the council by the Minister.

SUBSIDIARY LEGISLATION

[Subsidiary]

Appointment of members of town councils and urban councils under section 7

The persons for the time being holding the following offices are appointed members of the councils indicated— G.N. 91/75

Betio Town Council

Chief Lands Officer

Medical Officer in Charge, Betio

Te Inainano Urban Council

Chief Lands Officer

Senior Medical Officer (Health)

Authorisation for access to records under section 66

The following officers are authorised to have access to the records of local government councils— L.N. 97/77

- (a) all public officers employed in the Ministry of Local Government;
- (b) all district officers;
- (c) the Local Government Training Officer.

Regulations under section 79

LOCAL GOVERNMENT (BASIC RATE) REGULATIONS

L.N. 8/66
14 of 1976

1. These Regulations may be cited as the Local Government (Basic Rate) Regulations. Citation

2. In these Regulations unless the context otherwise requires— Interpretation
"rate collector" means a person appointed under the provisions of section 89.

[Subsidiary]
Notification
of basic rate

3. (1) Each council shall on 1st December in each year or as soon as possible thereafter give notice of—

- (a) the amount or amounts of the basic rate imposed by the council in respect of persons resident within the area of its authority which shall be due and payable on the 1st January next succeeding or 1 month after the date of publication of the said notice, whichever is the later;
- (b) the liability of every person of or above the age of 18 years resident in the area of authority of the council on 1st January next succeeding or 1 month after the date of publication of the said notice, whichever is the later to pay the basic rate unless generally or specifically exempted;
- (c) the name of every person, if any, appointed to be a rate collector and the area for which each such rate collector has been authorised to collect the basic rate;
- (d) the times and places specified for payment of the basic rate; and
- (e) the categories of persons, if any, who are exempted from the payment of the basic rate.

(2) For the avoidance of doubt it is hereby declared that nothing in this regulation, nor any failure to comply therewith, shall in any way affect or derogate from section 81 (1).

Exemption
certificates

4. (1) Subject to the directions of the assessment committee, if any, a rate collector may issue an exemption certificate to any person he is satisfied is exempted from liability to pay the basic rate.

(2) An exemption certificate may at any time be cancelled by the rate collector or assessment committee giving written notice of cancellation to the holder thereof.

(3) Every certificate of exemption, other than such a certificate issued on account of the old age of the holder, shall, unless sooner cancelled, be valid only for the year of issue and shall then expire; a certificate issued on account of the old age of the holder shall remain valid until cancelled.

Remission
certificates

5. (1) Subject to the directions of the council, a rate collector may issue a remission certificate to any person certifying that such person has had his payment of the basic rate remitted.

(2) A remission certificate may be cancelled at any time by the council or a rate collector.

Power to
exempt from
penalty
where
assessment
disputed

6. A council, assessment committee, or court in which it is sought to recover any penalty for failure to pay the basic rate before a specified time or date, may for good cause remit the whole or any part of any penalty as aforesaid due from any person who has disputed the assessment of the basic rate to which the penalty relates.

Receipts

7. (1) Forthwith upon the payment to him of any sum for and on account of a basic rate, every rate collector shall issue to the person making such payment a receipt which shall be signed by the rate collector issuing the same and shall show the date of the payment to which it refers, the name of the person on whose account such payment is made and the year in which the liability for such payment arose.

(2) Any rate collector who shall wilfully fail or neglect to issue a receipt in accordance with paragraph (1) shall be liable to a fine of \$10 and to imprisonment for 6 weeks.

NOTES ON OMITTED SUBSIDIARY LEGISLATION

1. Warrants under section 3 establishing councils, the bye-laws of councils under section 50 and Island Regulations under section 124 are omitted.

2. The following Table sets out the councils which have been established under section 3.

TABLE

Name of Council	Established with effect from	Warrant: L.N.	Amendment of Warrant: L.N.
Abaiang Island	28th March 1967	51/67	{ 21/68 14/69 66/69 21/75
Makin Island	28th March 1967	52/67	{ 24/68 12/69 21/75
Tarawa Rural Ewaku Tarawa Teinawela Kairua	28th March 1967	53/67	{ 20/68 15/69 21/75
Maiana Island	28th March 1967	54/67	{ 19/68 16/69 21/75
Butaritari Island	28th March 1967	56/67	{ 23/68 13/69 10/70 21/75
Nonouti Island	12th April 1967	50/67	{ 15/68 11/69 21/75
Kuria Island	12th April 1967	1/72	{ 18/68 8/69 21/75
Aranuka Island	12th April 1967	2/72	{ 17/68 9/69 21/75
Abemama Island	12th April 1967	3/72	{ 16/68 10/69 21/75
Arorae Island	15th November 1967	77/67	{ 9/68 22/69 21/75

L.N. 43/80

[Subsidiary]

TABLE—continued

Name of Council	Established with effect from	Warrant: L.N.	Amendment of Warrant: L.N.
Onotoa Island	15th November 1967	78/67	{ 13/68 18/69 21/75
Nikunau Island	15th November 1967	79/67	{ 11/68 20/69 21/75
Beru Island	15th November 1967	80/67	{ 12/68 19/69 21/75
Tamana Island	15th November 1967	84/67	{ 10/68 21/69 9/70 21/75
Marakei Island	29th November 1967	83/67	{ 22/68 31/69 21/75
North Tabiteuea Island	1st January 1970	59/69	—
South Tabiteuea Island	1st January 1970	60/69	18/71
Te Inainano Urban Council	30th May 1972	23/72	{ 38/74 21/75
Betio Town Council	30th May 1972	24/72	{ 6/73 36/74

NB—The warrant of the Tabiteuea Council dated 8th April 1967 was cancelled with effect from 1st January 1970: see L.N. 61/69.

3. *Island Regulations have been made for Canton Island (G.N. 169/56) and Ocean Island (G.N. 147/57).*