

CHAPTER 290

THE LOCAL GOVERNMENT FINANCES ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

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CHAPTER 290

THE LOCAL GOVERNMENT FINANCES ACT

An Act to make provision for sources of revenue and the management of funds and resources of local government authorities and for matters connected or incidental to securing the proper collection and sound management of finances in the local government system.

[14th March, 1983]

[G.Ns. Nos. 35 and 36 of 1983]

Acts Nos.

9 of 1982

18 of 1983

4 of 1985

17 of 1985

10 of 1986

4 of 1987

10 of 1987

18 of 1991

23 of 1991

6 of 1999

12 of 1999

4 of 2001

10 of 2002

G.N. No. 33 of 2001

PART I

PRELIMINARY PROVISIONS (ss 1-4)

[PCh290s1]1. Short title

This Act may be cited as the Local Government Finances Act.

[PCh290s2]2. Omitted

[Omitted.]

[PCh290s3]3. Application

This Act shall apply in respect of all local government authorities established under the Local Government (District Authorities) Act * and the Local Government (Urban Authorities) Act *.

[PCh290s4]4. Interpretation Act No. 6 of 1999 s. 65

In this Act, unless the context requires otherwise—

"the Act" means, in relation to a district authority, the Local Government (District Authorities) Act *, and in relation to an urban authority, the Local Government (Urban Authorities) Act *;

"accounting officer" means any of the accounting officers appointed under section 36;

"accounts" includes records relating to accounts;

"auditor" means the person appointed by a local government authority, with the prior approval of the Minister, to audit the accounts of a local government authority in accordance with the provisions of Part IV and for the purposes of that Part and of section 47, includes any person duly authorised in that behalf by the auditor;

"authority" means a local government authority;

"block grant" means subvention whether conditional or unconditional granted to a local government authority by the central Government under section 13;

"Board" means the Local Government Loans Board established by section 56;

"Decentralisation Act" means the Decentralisation of Government Administration (Interim Provisions) Act *;

"district authority" means a district council, a township authority or a village council;

"district development council" means a council established pursuant to the provisions of the Decentralisation Act *;

"equalisation grant" means subvention granted by the central government in agreement with the local government authorities to least developed local authorities meet the cost of services based on the degree to which a local government unit is lagging behind the national standard;

"financial memoranda" means written instructions issued by the Minister under section 45 of this Act;

"functions" includes powers and duties;

"Government" means the Government of the United Republic;

"local government authority" means a district authority or an urban authority;

"Minister" means the Minister responsible for local government;

"urban authority" means a town council, a municipal council or a city council;

"Urban Councils Act" means the Urban Councils (Interim Provisions) Act *, repealed by the Act;

"Villages Act" means the Villages and Ujamaa Villages (Registration, Designation and Administration) Act *, repealed by the Act.

PART II

FUNDS AND RESOURCES OF LOCAL GOVERNMENT AUTHORITIES (ss 5-15)

[PCh290s5]5. Vesting of assets and liabilities in local government authorities

(1) Notwithstanding the enactment of the Act and the repeal of the Urban Council Act, all assets and liabilities vested in any urban council immediately before, and subsisting on, the commencement of the Act and this Act shall, by virtue of this subsection and without further assurance, vest and continue to vest in and to be the property and liabilities, respectively, of the urban authority established or deemed to have been established under the Act in the area of the urban council concerned.

(2) Upon the commencement of the Act and the establishment of a district council in the area previously of a District Development Council—

(a) all sums of money, roads, open places, lands, buildings, waterworks, bridges, pier, ferries, vehicles, goods and all other property of any kind vested in, belonging to, held by, or purported to belong to or be held by the District Development Council, or held by the Government for or on behalf of that District Development Council, shall, by virtue of this subsection and without further assurance, be transferred to and vest in a like interest in the district council in question;

(b) all the assets which were transferred to the Government from the former local authority by virtue of the provisions of the Decentralisation Act *, and which are subsisting immediately before the commencement of the Act shall, by virtue of this subsection and without further assurance, be transferred to and vest in the district council established under the Act in the area of the former local authority;

(c) subject to such directions as the Minister may, after consultation with the Minister responsible for finance, give in that behalf—

(i) all liabilities arising from a District Development Council in whose area a district council is established under the Act; and

(ii) all liabilities arising from or connected with the assets transferred to the Government from a former local authority by virtue of the provisions of the Decentralisation Act *, shall, by virtue of this subsection and without further assurance, be or remain vested in, and be settled by the Government.

(3) Every instrument specified in subsection (4) as an instrument to which that subsection applies shall, upon the commencement of the Act and the establishment of a district council in the area previously of a District Development Council, by virtue of this section continue in full force and effect and the district council shall by this Act be—

(a) substituted for the District Development Council as a party to the instrument;

(b) entitled to receive, and enforce payment of any money payable under the instrument;

(c) entitled to obtain transfer, conveyance or assignment of, and enforce possession of any property which was or is to be transferred, conveyed or assigned under the instrument;

(d) liable to make payment of any money payable under the instrument, subject to this section;

(e) liable to transfer, convey or assign any property which was or is to be transferred, conveyed or assigned under the instrument, subject to this section, as the case may be.

(4) This subsection applies to instruments, including contracts, guarantees, agreements bonds, authorities, mortgages, charges, bills of exchange, promissory notes, bank drafts, bank cheques, letters of credit, securities, certificates of title, share and stock certificates, warrants and other documents—

(a) to which a District Development Council was or is a party;

(b) to which the Government was or is a party as a trustee or guarantor for a District Development Council;

(c) creating or evidencing any right of a District Development Council to property; or under which any money was or is to be or may have or may become, liable to be transferred, conveyed or assigned by a District Development Council, which are subsisting on or after the commencement of the Act or come into existence after the establishment of a district council in the area previously of a District Development Council, and which relate to the assets transferred to or vested in a district council by virtue of this section.

(5) Where the Minister in giving directions pursuant to paragraph (c) of subsection (2) of this section, transfers or vests liabilities or any part of the liabilities of a District Development Council or of the Government, to or in a district council, the district council shall have power to renegotiate the period for settlement of the liability or liabilities with the creditor or other person to whom the district council shall thereby become indebted.

(6) Subject to such directions as the Minister may give in that behalf, a district council may transfer any portion of the assets vested in it by this section to any township authority or authorities within its area of jurisdiction.

(7) Notwithstanding the enactment of the Act and the repeal of the Villages Act, all assets and liabilities vested in any village council immediately before, and subsisting on, the commencement of the Act and this Act shall continue to vest in and to be the property and liabilities, respectively, of the village council concerned.

(8) Where immediately before the commencement of this Act, any village council was—

- (a) entitled to receive, and enforce payment of, any money;
 - (b) entitled to obtain transfer, conveyance or assignment of, and enforce possession of any property which was or is to be transferred, conveyed or assigned;
 - (c) liable to make payment of any money payable by it;
 - (d) liable to transfer, convey or assign any property which was or is to be transferred, conveyed or assigned, as the case may be,
- under instrument or document of the nature of an instrument or document to which, mutatis mutandis, subsection (4) of this section applies and which is subsisting on or after, or comes into operation after the commencement of this Act, the instrument or document shall continue in full force and effect, and the rights and liabilities of the village council in question arising from the instrument or document concerned shall continue vesting in that village council, notwithstanding any other provisions of this Act to the contrary.

[PCh290s6]6. Sources of revenue of urban authorities Acts Nos. 4 of 1999; 12 of 1999 s.

(1) The revenues, funds and resources of an urban authority shall consist of—

- (a) all assets vested in the urban authority by virtue of section 5;

(b) all moneys derived from any trade, industry, works, services or other undertaking carried on or owned by the urban authority;

(c) all fees for licences granted within the area of the urban authority under the Auctioneers Act *;

(d) all moneys derived from the registration of taxi cabs and commuter buses plying within the area of the urban authority;

(e) all the fees for licences granted under the Business Licensing Act *, in respect of business premises for business other than businesses of a national or international character situated within the area of jurisdiction of an urban authority;

(f) such proportion as the Minister may, with the approval of the Minister responsible for finance, determine, of the revenue collected by the Government under the Road Traffic Act *, in respect of vehicles which are ordinarily housed or kept within the area of the urban authority, or such amount in lieu of that sum as the Minister may direct;

(g) all fees for licences granted within the area of the urban authority under the Intoxicating Liquors Act *;

(h) all fees for licences in respect of theatres or other places of public entertainment within the area of the urban authority, granted under the Films and Stage Plays Act *;

(i) all moneys derived from fees for licences, permits, dues or other charges payable pursuant to the provisions of any by-law made by the urban authority;

(j) all moneys derived from fines imposed by, or the value of all things and articles forfeited as a result of an order of any court in consequence of a contravention of

any provision of the Act, this Act or any by-law of the urban authority in relation to markets, animals pounds or recreation halls within the area of the authority;

(k) all moneys derived from rents or fees collected for renting or use of public houses or buildings owned by the urban authority;

(l) all moneys derived from the urban development levy imposed by the urban authority pursuant to this Act;

(m) all moneys derived from fees paid in respect of rents of shop, butcheries, market stalls, user charges, service charges and entertainment taxes;

(n) all moneys realised from the sale or other disposition of things and articles of the urban authority;

(o) all moneys derived from rates;

(p) all moneys payable under the Entertainment Tax Act *, and collected within the boundaries of the urban area;

(q) all moneys payable under the Hotels Act *, by the proprietor of guest houses within the boundaries of the urban area.

(r) all the fees derived from meat inspection and abattoir use;

(s) twenty percent of all the moneys collected by the Central Government as land rent under the Land Act *;

(t) all moneys derived from any cess payable at source on any agricultural or other produce, produced in the area of the urban authority imposed under this Act or any other written law except major export crops whose produce cess shall not exceed five percent of the farm-gate price shall as well be payable at source;

(u) all monies derived from the service levy payable by corporate entities at the rate not exceeding 0.3 percent of the turnover net of the value added tax and the excise duty.

(2) An urban authority may charge fees or dues in respect of services provided by it and, moneys derived from fees or dues chargeable in respect of those services, activities and programmes.

(3) Any other moneys lawfully derived by an urban authority from any other source not expressly specified in subsection (1) or (2) shall be and form part of the revenues, funds and resources of the urban authority.

(4) All revenues of an urban authority shall be paid into the general fund of the urban authority.

[PCh290s7]7. Sources of revenue of district councils Act No. 12 of 1999 s. 24; G.N. No. 33 of 2001

(1) The revenues, funds and resources of a district council shall consist of—

- (a) all assets vested in the district council by virtue of section 5;
- (b) all moneys derived from any trade, industry, works, service or undertaking carried on or owned by the district council;
- (c) all moneys derived from the development levy imposed by the district council under this Act;
- (d) all moneys from rents collected for renting public houses or buildings owned by the district council;

(e) all moneys derived from any rate imposed by the district council under or in pursuance of this Act or any other written law;

(f) all fees for licences granted within the area of the district council under the Intoxicating Liquors Act *, subject to this Act;

(g) all moneys derived from any cess payable at source on any agricultural or other produce, produced in the area of the District Council imposed under this Act or any other written law, except for major export crops whose produce cess shall range between zero and five percent of the farm-gate price shall as well be payable at source;

(h) all moneys derived from fees charged for the registration of marriages contracted within the area of the district council;

(i) all moneys derived from fees for licences granted under the Business Licensing Act *, in respect of business premises situated within the area of the district council;

(j) one-half of all fines imposed by, and one-half of the value of all things and articles forfeited as a result of an order of, any magistrates' court within the area of the district in consequence of a contravention of any provision of the Act, this Act or any other written law relating to local government affairs;

(k) all moneys derived from licences, permits, dues charges or fees specified by any by-law made by the district council;

(l) all moneys paid in respect of licences granted under the Arms and Ammunition Act * for the possession of muzzle-loading guns in the district;

(m) moneys payable to the district council under the provisions of any other written law;

(n) all revenue accruing to the district council from the Government, any public or statutory corporation or international organisation as contributions, grants-in-aid, endowments or other manner of payment;

(o) any particular public revenue which may be lawfully assigned to the district council;

(p) interest on any of the funds of the district council invested by it, except where special provision is made in regard to them under this Act or any other written law;

(q) interest on funds of the district council deposited with the Board for investment, except where special provision is made in regard to any of them under this Act or any other written law;

(r) all moneys derived from fees for forest produce and licences accruing to the district council under section 10 of the Forests Act *;

(s) all moneys derived from fees for the registration of vehicles under the Road Traffic Act *;

(t) all moneys payable under the Entertainment Tax Act *, and collected within the boundaries of the district council;

(u) all moneys payable under the Hotels Act *, by the proprietor of guest houses and collected within the boundaries of the district council;

(v) twenty percent of the moneys derived from hunting fees charged under the Wildlife Conservation Act *;

(w) ten percent of all the money collected by the Central Government in respect of registration of private hospitals under the Private Hospitals (Regulation) Act *;

(x) all the fees derived from meat inspection and abattoir use;

(y) twenty percent of all the moneys collected by the Central Government as land rent under the Land Act *;

(z) all monies derived from the service levy payable by corporate entities at the rate not exceeding 0.3 percent of the turnover net of the value added tax and the excise duty.

(2) Any other moneys lawfully derived by a district council from any other source not expressly specified in subsection (1) shall be and form part of the revenue, funds and resources of the district council.

(3) Subject to subsection (4), all revenues of a district council shall be paid into the general fund of the district council.

(4) Any receipt derived from any trade, industry, works, service or other undertaking carried on or owned by a district council either in whole or in part may be paid into a separate fund to be maintained by the district council for the purposes of the trade, industry, works, service or undertaking, as the case may be, from which the receipt is derived.

[PCh290s8]8. Sources of revenue of township authorities Act No. 18 of 1991

(1) The revenue, funds and resources of a township authority shall consist of—

(a) all assets handed over to the township authority pursuant to the provisions of section 5;

(b) all fees for licences granted within the township under the Auctioneers Act *;

(c) all fees received in respect of licences granted within the township area under the Films and Stage Plays Act * or in respect of theatres or other places of public entertainment;

(d) all moneys derived from licences or permits issued by the township authority under the provisions of this Act or any subsidiary legislation made under it;

(e) moneys payable to township authority under the provisions of any other written law;

(f) all fees, charges, dues and rents recoverable by the township authority or to which the township authority is entitled under this Act or any other written law;

(g) all receipts derived from any trade, industry, works, service or undertaking carried on or owned by the township authority either in whole or in part;

(h) all moneys representing the proceeds of by-products sold by the township authority;

(i) any particular public revenue which may be lawfully assigned to the township authority;

(j) all interest upon moneys invested by the township authority except where special provision is made in regard to any of it under this Act or any other written law;

(k) all revenue accruing to the township authority from the Government, the district council in whose area the township authority is situated or any public or statutory

corporation or international organisation as contributions, grants-in-aid, endowments or any other manner of payment;

(l) all moneys payable under the Hotels Act *, by guest houses and collected within the boundaries of the township;

(m) all moneys payable under the Entertainment Tax Act *, and collected within the boundaries of the township.

(2) The provisions of subsection (2), (3) and (4) of section 7, which relate to the sources of revenue of district councils, shall apply mutatis mutandis in relation to the sources of revenue of township authorities as if references to a district council in those provisions were references to a township authority.

[PCh290s9]9. Sources of revenue of village councils Acts Nos. 18 of 1991; 4 of 2001; 10 of 2002 s. 15

(1) Subject to the following provisions of this section, and to such specific or general directions as the Regional Commissioner may, with the prior approval of the Minister, give to a district council, regarding the finances of villages, the revenues, funds and resources of a village council shall consist of—

(a) all receipts derived from any trade, industry, works, service or undertaking carried on or owned by the village;

(b) all moneys derived from licences, permits, dues, fees, charges or tariffs specified by any by-law made by the village council;

(c) all moneys from rents collected for renting public houses or buildings which belong to the village council;

(d) all moneys which a village council may borrow from lending institutions or any other source, pursuant to its general power of raising money by borrowing;

(e) all revenue accruing to the village council from the Government, the district council or from any private individual or a public institution by way of contributions, grants-in-aid, endowments or any other manner of payment;

(f) all moneys derived from fines imposed in respect of any contravention of any by-laws made by or in respect of the village council;

(g) all moneys payable under the Entertainment Tax Act *, and collected within the boundaries of the village;

(h) all moneys payable under the Hotels Act *, by proprietors of guest houses and collected within the boundaries of the local government authority concerned;

(i) all taxes imposed on sources of income excluded from the requirements of sections 57, 58 and 79 of the Income Tax Act *, and of the following type listed below collected within the boundaries of villages and non major trading centres:

(a)	Retail businesses	Shs.	15,000/= p.a.
(b)	Milling	Shs.	20,000/= p.a.
(c)	Hulling	Shs.	15,000/= p.a.
(d)	Charcoal business	Shs.	15,000/= p.a.
(e)	Timber sales	Shs.	20,000/= p.a.
(f)	Butcheries	Shs.	10,000/= p.a.

(2) Subject to subsection (3), every village council may make by-laws to prescribe reasonable fees, charges and tariffs for any licence or permit issued by the village council.

(3) Any fees, charges or tariffs prescribed under subsection (2) shall be subject to any limitations which may be imposed by any written law or to rates which may be prescribed by the district council in whose area of jurisdiction the village is situated.

(4) Any other moneys lawfully derived by a village council from any other source not expressly specified in subsection (1) shall be and form part of the revenues, funds and resources of that village council. (5) Subject to subsection (6), all revenues of a village council shall be paid into the general fund of the village council.

(6) Any receipt derived from any trade, industry, works, services or other undertaking carried on or owned by a village council in whole or in part may be paid into a separate fund to be maintained by the village council for the purposes of that trade, industry, works service or other undertaking, as the case may be, from which the revenue is derived.

[PCh290s10]10. Power of the Minister Act No. 6 of 1999 s. 66

(1) No person shall alter any item or revenue source that may affect the local government authority or authorities without consultation with the Minister responsible for local government.

(2) Notwithstanding sections 6, 7, 8 and 9(1) of this Act, the Minister may, after consultation with other stakeholders, by regulation decide on the distribution of sources of revenue among various levels of councils.

[s. 9A]

[PCh290s11]11 Appointment of Local Government Licensing Authorities in respect of certain business etc. Acts Nos. 12 of 1999 s. 25; 14 of 2001 s. 18; 10 of 2002 s. 16

(1) The Local Government Licensing Authorities are appointed to be the licensing authorities in respect of the business of small scale industries, attended telephones, all small scale businesses (micro enterprises) appearing therein, a broker, regional trade companies, co-operative societies, wholesale trade, building contractors, printing and publishing of newspapers and books, spare parts, insurance agents, restaurants and ordinary hotels and guest houses, pharmacies, drug shops, private dispensaries, private clinics, auctioneers, itinerant traders, transportation of passengers within the City, Municipal town and township, specified professions and any other business that the Minister for Industries and Trade may designate to the local government.

(2) The licence fees collected in respect of the business listed under subsection (1) shall be treated as revenue accruing to the Local Government Licensing Authorities and the total sums of money so collected shall be appropriated and expended for the purposes of such local government authorities.

[s. 9B]

[PCh290s12]12. Grants to local government authorities Act No. 6 of 1999 s. 67

(1) There shall be paid annually to an urban authority by way of grants from the public revenue of the United Republic the following amounts, for which payment there shall be no further authorisation other than this section, that is to say—

(a) such sum as the Minister may, after consultation with the Minister responsible for finance from time to time, determine as being the cost incurred by the urban authority in the provision and maintenance of public health services, educational services, construction, reconstruction and maintenance of roads and the construction and maintenance of sewerage and agricultural extension services;

(b) a sum equivalent to the total expenditure incurred by the urban authority in connection with outbreaks of infectious diseases;

(c) a sum equivalent to thirty-three and one-third per centum, in the case of a municipal council and, in the case of a town council equivalent to fifty per centum, of the total annual salaries of all heads of departments of the urban authority concerned.

(2) The Government may, subject to such general or specific conditions, limitations or exceptions as it may impose or make, make such grants to any urban authority relating to the development or maintenance of any services within its area as it may determine.

(3) There shall be paid annually to a district council by way of grants from the public revenue of the United Republic the following amounts, for which payment there shall be no further authorisation other than this section, that is to say—

(a) such sum as the Minister may, after consultation with the Minister responsible for finance, determine as being costs incurred by the district council on the construction, reconstruction or maintenance of roads within the area of the authority which are classified under the Highways Act * as district roads;

(b) a sum equivalent to such percentage, as the Minister may, after consultation with the Minister responsible for finance, determine, of the total annual salaries of any officer employed and paid by the authority whose appointment and salary are approved for this purposes by the Minister;

(c) such sum as the Minister may from time to time direct in respect of the recurrent cost to the authority of maintaining public health services in the area of the authority and of measures taken outside the area of authority and approved by the Minister for the prevention and abatement of nuisances causing danger or injury to health within the area;

(d) a sum equivalent to all expenditure incurred by the authority in connection with outbreaks of infectious diseases;

(e) such sum as the Minister may, after consultation with the Minister responsible for finance, determine as being the costs incurred by the district council on the provision and maintenance of water supply services and educational services within the area of the authority;

(f) such sum as the Minister may after consultation with the Minister responsible for finance determine as being the costs incurred by the district council on the provisions and maintenance of agriculture and livestock extension services within the area of the district authority.

(4) Payments of the amounts specified in paragraphs (a) and (e) of subsection (3) shall be subject to the conditions that—

(a) the Minister approves the standard of construction or reconstruction, or of construction and maintenance of the roads in question before the cost on it is incurred;

(b) subject to the direction of the Minister in that behalf, provision shall be made in the annual estimates of the authority for recovery of the remaining moiety of the costs so incurred, or where the moiety is to be met from loan funds, from the recovery of interest and loan charges out of rates to be imposed by the authority;

(c) the authority shall cause a special account to be kept of the costs and expenditure so incurred in connection with outbreaks of infectious diseases and, where any question arises as to the correctness or admissibility of any charge against the special account, the decision of the Minister shall be final.

(5) The Government may, subject to such general or specific conditions, limitations or exceptions as it may impose, make such grant to any rural authority relating to the development or maintenance of any services within its area as it may determine.

[s. 10]

[PCh290s13]13. Block grants to local government authorities Act No. 6 of 1999 s.

68

(1) There shall be paid annually to an urban authority by way of block grants from the public revenue of the United Republic the following amounts, for which payment there shall be no further authorisation other than this section such sum as the Minister may after consultation with the Minister responsible for finance determine as being the cost to be incurred by the urban authority for development and maintenance of services particularly education, health, water, roads and agriculture.

(2) there shall be paid annually to a district council by way of block grants from the public revenue of the United Republic the following amount for which payment there shall be further authorisation other than this section such sum as the Minister may after consultation with the minister responsible for finance determine as being costs to be incurred by the district council in the provision of essential social service; particularly education, health, water, roads and agriculture.

(3) Payment of block grants under subsections (1) and (2) may vary from one local authority to another depending on the grades and standards as may be prescribed by the Minister.

(4) The government may, where it is satisfied that a particular local authority has a weak revenue base, pay to that local authority an equalisation grant to enable it to provide maintain and develop other necessary services within its area.

(5) The Minister shall, by regulation published in the Gazette, prescribe the criteria for the provision of equalisation grant.

[s. 10A]

[PCh290s14]14. Power to borrow

(1) A local government authority may, from time to time, with the approval of the Minister, given after consultation with the Minister responsible for finance, raise within the United Republic loans for such amounts, from such sources, in such manner, for such purposes and upon such conditions as the authority concerned may deem fit subject to subsection (2).

(2) Loans raised under this section may be secured upon the revenue of the authority or by mortgage or charge of any land or premises in its ownership or disposition or may be secured both upon such revenues and by such mortgage or charge and shall be repaid within such period as the Minister may approve.

(3) Where any interest or any payment of capital due on any loan remains unpaid for three months after a demand for it has been served on the authority in writing by the person entitled to do so, the Minister may—

(a) order that a rate necessary to produce the sum due be levied upon and collected from the rate-payers of the area either immediately or at such date as he shall order, and for the purpose of raising that sum the Minister shall in addition have the same power as the authority concerned of making and levying a rate under this Act or any other written law;

(b) if requested so to do by that person, order the sale of any property, on which the loan is secured.

(4) The Minister shall have and may exercise all powers conferred upon him by subsection (3) in any case where a loan made to an authority has been guaranteed by the Government and where under the terms of that guarantee the Government has made to or to the order of the lender payment of capital or interest due on the loan.

(5) The power of the Minister under this section of making and levying a rate and issuing a requisition may be exercised at any time.

[s. 11]

[PCh290s15]15. Overdrafts

(1) Subject to subsection (2), a local government authority may, with the approval of the Minister, obtain advances from banks by overdraft upon the credit of the authority.

(2) No overdraft shall at any time in any circumstances exceed the income of the authority in the previous financial year.

[s. 12]

PART III

MAKING AND COLLECTION OF RATES (ss 16-35)

[PCh290s16]16. Power to impose taxes and rates Act No. 12 of 1999 s. 26

(1) Subject to this Act and to rules made by the Minister under this section, a local government authority may make by-laws imposing such rates to be paid by the inhabitants or such categories of inhabitants, for on or in connection with such services, things, matters or acts as the authority may describe or specify in the by-laws in question.

(2) The Minister shall, after consultation with the Minister responsible for finance, make rules, to be known as rating rules, prescribing limitations and imposing conditions upon which any local authority or category of local authorities may make legislation imposing rates under this section.

(3) Without prejudice to the generality of the power conferred in the preceding provisions of this section, the Minister may in rules made under subsection (1), provide for procedures to be complied with by local government authorities for the purposes of imposing and collecting rates in their respective areas.

(4) The Minister may, by order in the Gazette, exempt any category of persons from payment of any rate chargeable under this Act.

(5) Any order made under this section shall be laid before the National Assembly.

(6) The rates imposed in relation with the service levy shall be payable in lieu of the industrial cess and the corporate entities paying service levy shall not be liable to pay the produce cess.

[s. 13]

[PCh290s17]17. Duty to make sufficient rates

Every district council and every urban authority shall, subject to this Act, make or levy such rates as will ensure the raising of income from rates which, in combination with income from other sources of revenue, will be sufficient to provide for such part of the estimated total expenditure to be incurred by it during the period in respect of which the rate is made or levied as is to be met out of money raised by rates including in that expenditure any additional amount as is, in the opinion of the authority, 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; except that an authority which submits for the necessary approval a proposal to make or levy a rate which which complies with the requirements contained in this section shall be deemed to have complied therewith.

[s. 14]

[PCh290s18]18. Methods of rating Act No. 18 of 1983

(1) Subject to the prior approval of the Minister, and to the provisions of subsection (2), a local government authority may make and levy an annual rate on every

person of or above the age of eighteen years who is a person in respect of whom, or a member of a category or description of persons in respect of which the functions of the authority are exercisable and who resides or owns property in its area of jurisdiction, based upon any one or more of the following systems, that is to say—

- (a) a uniform rate per capita;
- (b) a graduated rate per capita;
- (c) a rate based on the value of immovable property situated within the area of the authority or in any part of that area;
- (d) a rate assessed on the earnings, livelihood or possessions of persons in the area liable to payment of rate;
- (e) a rate based on the fact of the ownership of immovable property situated in a specified area or at a specified place within the area of the authority.

(2) Nothing in this section or in this Part shall be construed as exempting any person from paying rate under this section for the reason only that a tax or other payment has been or is liable to be paid or made to the Government in respect of any property, income, business or activity.

[s. 15]

[PCh290s19]19. Publication of rate

Notice of every rate made under section 18 shall be given by the local government authority making the rate within fifteen days after the passing of a resolution making the rate, and the rate shall not be valid unless a notice of it is duly given in the manner for the time being prescribed by rules made under section 34.

[s. 16]

[PCh290s20]20. Duty to pay rates

(1) For the purposes of this section, the term "resident" means any person who habitually resides in the area of jurisdiction of a local government authority.

(2) It shall be the duty of every resident of a local government authority to pay rates or duties which he is by or under this Act required to pay to the authority for the purposes of ensuring the development of the area in accordance with the purposes and provisions of the Act, unless he is otherwise exempted from payment of the rate or duty by this Act or by the authority concerned under this Act.

[s. 17]

[PCh290s21]21. Date and place of payment

Where a local government authority gives notice of a rate in accordance with section 19, every person liable to pay the rate shall pay the amount of the rate to a rate collector or other person duly authorised or appointed by the authority in question to collect and receive the rate at such time and at such place as may be specified by the authority.

[s. 18]

[PCh290s22]22. Exemption from and remission of rates Acts Nos. 23 of 1991; 6 of 1999 s. 69

(1) Notwithstanding any other provisions in this Act to the contrary—

(a) if any person who would otherwise be liable for payment of a uniform or graduated rate to any local government authority produces to the chief executive officer of

that authority or rate collector appointed by the authority a valid receipt issued by or on behalf of any other local government authority evidencing the payment by him of the uniform or graduated rate levied by that other authority for the current year, being a rate which he was liable to pay under the provisions of this Act, he shall not be liable for payment of that uniform or graduated rate for that year levied by the first-mentioned local government authority except to the extent, if any, by which the uniform or graduated rate exceeds that to which the receipt relates;

(b) the following tenements shall be exempt from assessment and rating under this Act, namely—

(i) all lands and buildings appropriated exclusively for the purposes of public worship;

(ii) cemeteries and burial grounds;

(iii) charitable and educational institutions;

(iv) any tenement specifically exempted by the council in writing except that the Council shall in making the exemption ensure that there are other sources of revenue to compensate for the revenue of exempted tenement and the exemption is immediately reported to the Regional Commissioner and copied to the external auditor.

(2) A local government authority may reduce or remit payment of any rate, on account of the inability to pay it; or exempt, any person or category of persons specified in subsection (3), from liability to pay the rate.

(3) The persons or categories of persons specified for the purposes of subsection (2) are—

- (a) any person who is completely dependent on others for his livelihood;
- (b) women who are completely dependent on their husbands or other persons for their livelihood;
- (c) full-time students of the age of or above eighteen years who, for inability to work, are dependent on others for their livelihood;
- (d) old persons of or above the age of sixty years who have no visible sources of income;
- (e) disabled persons who have no visible sources of income;
- (f) any person, or other category of persons, whom the local government authority thinks it fit, for any reason, that they should be exempted.

(4) The exercise by a local government authority of the powers conferred by subsection (2) shall be without prejudice to the duty imposed on that authority by section 17 to raise income from rates which is sufficient to meet its annual budgetary requirements.

(5) Any sum paid as rates imposed under any written law in respect of premises within the area of a local government authority payable by person resident within that area in respect of the year in which the local government authority is established shall be deemed to be sums paid on account of rates to be made and levied by the authority in respect of that year.

[s. 19]

[PCh290s23]23. Claim for amount of rate

(1) If any person fails to pay any rate for which he is liable on or before the date on which it is payable, the local government authority concerned may recover it as a civil debt together with costs and such penalty as may be prescribed by rules made under section 34.

(2) Subject to subsection (3), in any proceeding to recover a rate or a penalty, the rate books and other records of the local government authority concerned and all certified copies of entries purporting to be made in them signed by the Chairman shall, upon their production be prima facie, evidence of the rate, and of the matters stated in them, without any evidence that the requirements of this Act have been complied with.

(3) It shall be competent for any person proceeded against under this section to offer evidence to prove the contrary.

(4) Any rate or dues under the provisions of this Act shall be deemed to be a local rate within the meaning of paragraph (a) of subsection (1) of section 39 of the Bankruptcy Act *.

[s. 20]

[PCh290s24]24. Penalty for failure to pay rates and for wilful mis-representation Act
No. 6 of 1999 s. 70

(1) Any person who neglects, fails or refuses to pay any rate payable by him to a local government authority under this Act, commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months, unless he proves that the apparent neglect, failure or refusal was due to provable circumstances beyond his control.

(2) Nothing in subsection (1) shall, in any proceedings under that subsection, be construed as making available to any able bodied person the defence of ignorance of or failure to remember the obligation to pay the rate concerned, nor shall poverty as such be available as an alternative or original defence for failure or total inability to pay rates.

(3) Nothing in subsection (1) shall affect or be construed as affecting the right of a local government authority to recover by suit any penalty prescribed by rules made under section 34 of this Act.

(4) Any person who wilfully misrepresents his rateable capacity in any way, commits an offence and is liable upon conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

[s. 21]

[PCh290s25]25. Penalty for inciting a person to refuse to pay rate, etc. Act No. 6 of 1999 s. 71

Any person who without lawful justification or excuse incites any person to refuse to pay any rate payable by him under this Act after it becomes due and payable, or who incites or assists any person to misrepresent his rateable capacity commits an offence and is liable upon conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

[s. 22]

[PCh290s26]26. Unauthorised collection of rates Act No. 6 of 1999 s. 72

Any person who—

(a) not being authorised under this Act or by the local government authority concerned or by an rate collector so to do, collects or attempts to collect any rate under this Act; or

(b) collects or attempts to collect any rates other than rates described in this Act or authorised by any other written law,
commits an offence and is liable upon conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a period of six months or to both such fine and imprisonment.

[s. 23]

[PCh290s27]27. Duty to give information

(1) Any person required to give any information shall give all such information as may be reasonably required of him by any local government authority, rate collector, or assessment committee appointed under section 31, with a view to obtaining information for the assessment or collection of rates.

(2) For the purposes of obtaining information under subsection (1), a local government authority, rate collector or assessment committee, as the case may be, may require any person to attend before it or him at such time and place as it or he may appoint.

[s. 24]

[PCh290s28]28. Refusal to give information Act No. 6 of 1999 s. 73

(1) Any person who, having been required to give information under section 27, wilfully misleads or attempts to mislead any local government authority, or its agent, rate

collector or assessment committee on any matter connected with the collection of a rate commits an offence and is liable upon conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(2) Any person who, having been required to give information under section 27, neglects, refuses or, without lawful excuse, fails to give the information required commits an offence and is liable upon conviction to a fine not exceeding fifty thousand shillings or to a term not exceeding three months or to both such fine and imprisonment.

(3) Any person who, having been required to attend before a local government authority, rate collector or assessment committee under section 27, neglects, fails or refuses to so attend at the time and place appointed by the local government, authority, rate collector or assessment committee, as the case may be, commits an offence and is liable upon conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

[s. 25]

[PCh290s29]29. Rate collectors

(1) Any local authority responsible for the collection of rates may, in writing, appoint any suitable person to be a rate collector in respect of any area or part of an area.

(2) It shall be the duty of every rate collector to—

(a) furnish in writing to the local government authority concerned a nominal roll of all rateable persons or tenements, as the case may be, in the area or part of an area for which he is appointed;

(b) collect and receive from each person liable for the payment of the rates in the area or part of an area for which he is appointed the rates payable by each such person;

(c) pay all amounts so collected to the local government authority concerned;
and

(d) report to the local government authority concerned the name of any person who has failed to pay the amount due from him for the rate.

[s. 26]

[PCh290s30]30. Offences by rate collectors Act No. 6 of 1999 s. 74

Any rate collector appointed under this Act who—

(a) fails to deposit with the local government authority concerned any such sum of money collected by him as rates;

(b) knowingly demands from any person an amount in excess of the duly assessed rates;

(c) recklessly or knowingly renders false returns, whether orally or in writing, of the numbers of rate payers or the amount of rates collected or received by him;

(d) wilfully fails to carry out any duty imposed on him as a rate collector by subsection (2) of section 29 of this Act,

commits an offence and is liable upon conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

[s. 27]

[PCh290s31]31. Appointment of agents Act No. 6 of 1999 s. 75

(1) A local government authority may, subject to the provisions of this Act–

(a) appoint a person or persons as agents for the collection of rates imposed by the authority on the person or persons who are not within its area of jurisdiction; and

(b) enter into such agreement as it may deem necessary with a person or persons so appointed as to the performance of the functions and to his remuneration.

(2) A person appointed as agent under this section shall be deemed, within the area for which he is appointed, to have all the powers as to collection of rates as the authority appointing him may exercise and may sue for the recovery of the amount of rates due with full costs of the suit, in any court of competent jurisdiction in the area for which he is appointed; except that the power of recovery of rates exercisable under this subsection shall be in addition to the powers exercisable in that behalf under the provisions of section 23.

(3) Section 30 shall apply to any agent who collects any sum as rates under the provisions of this section.

[s. 28]

[PCh290s32]32. Assessment committees

A local government authority 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 this Act.

[s. 29]

[PCh290s33]33. Deduction of rates from wages of employees

(1) A local government authority may, by notice in writing, require an employer, who carries on his business in the area of the authority, to deduct the rate payable to the authority by any persons employed by him or any category of them from the salaries, wages and other moneys due by such employer to those persons, and to apply the amount so deducted to the authority or to a rate collector nominated by the authority in the notice.

(2) Every notice—

(a) shall—

(i) inform the employer of the amount of the rate payable by each of his employees concerned;

(ii) require the issue by the employer to each person by whom the rate is payable of an acknowledgement of every sum deducted by the employer, and the issue by the employer of a receipt to every person by whom the rate is payable and from whose salary, wages or other moneys the full amount of rate due from that person has been deducted; and

(iii) specify the date by which any sums deducted shall be paid by the employer to the authority or to a rate collector nominated by the council in the notice;

(b) may—

(i) require the deduction of the rate to be made in one lumpsum or in not more than three instalments;

(ii) require the making of deductions before the date on which the rate is payable;

(iii) include such other provisions as may be necessary or convenient for the more effectual collection of the rate by means of deductions by employers and payment of the amount payable to the authority or to a rate collector nominated by the authority.

(3) The local government authority may by notice in writing to the employer amend, cancel or replace any notice issued under subsection (1).

(4) Subject to subsection (5), an employer required to deduct a rate under this section shall deduct and retain the rate, and he shall pay the amounts deducted to the local government authority or to a rate collector nominated by the authority.

(5) Where any employee produces to the employer a statement issued by the local government authority stating that he is exempt from the liability to pay the rate, or a valid receipt issued by the local government authority acknowledging the payment of a rate by the employee to the authority for the current year, the employer shall report the matter to the authority and shall not deduct any sum in respect of the rate from the salary, wages or other moneys due to the employee after the date of the production of the receipt or statement unless as directed by the authority, and the authority shall not give any such directions unless the receipt relates to an amount less than the total rate payable by the employee to the authority for that year or the statement relating to the exemption has ceased to be of effect.

(6) Where an employer required to deduct a rate or any instalment of a rate under this section fails, refuses or neglects to do so in accordance with the notice under which

the deductions are made, who shall himself be liable, for the amount which, but for his default, should have been so deducted, and a local government authority may recover the amount as a debt due to the authority, together with full costs of suit, in a competent court.

(7) Any employer who, having made any deduction under this section, fails without reasonable cause to pay the amount to the authority or to a rate collector nominated by the authority in accordance with the notice under which the deductions are made, commits an offence and is liable upon conviction to a fine not exceeding one thousand shillings and, in addition, to an amount equal to the amount of any deduction which he shall have made and not so paid.

(8) Any person who fraudulently alters or defaces any such acknowledgement or receipt as is referred to in subparagraph (ii) of paragraph (a) of subsection (2) commits an offence and is liable upon conviction to a fine not exceeding five hundred shillings or to imprisonment for a term not exceeding three months or to both.

(9) Subject to subsection (10) any employer, and any employee or servant of an employer engaged in the making of deductions under the provisions of this section, who omits without reasonable cause to give any such acknowledgement or receipt as is referred to in subparagraph (ii) of paragraph (a) of subsection (2) in accordance with the provisions of the notice under which the deductions are made, or in any manner delays or defers without reasonable cause the giving of it or, with intent to defraud, gives such an acknowledgement or receipt for an amount other than that deducted, commits an offence and is liable upon conviction to a fine not exceeding one thousand shillings or to

imprisonment for a period not exceeding three months or to both such fine and imprisonment.

(10) An employer who employs any person for the making of deduction under this section does not commit an offence under this subsection unless the act or omission constituting the offence was done or omitted on his express instructions.

[s. 30]

[PCh290s34]34. Rules relating to rates and rating

(1) The Minister may make rules—

(a) prescribing the notice to be given by a local government authority of its intention to make and levy a rate or impose a tax;

(b) prescribing the manner in which notice of a rate shall be published under section 19;

(c) prescribing the procedure for the appointment of assessment committees under section 31, and the procedure, powers and duties of those committees;

(d) prescribing the method of assessment of property or possessions for the purposes of any rate or tax to be levied or imposed under this Act;

(e) providing for the hearing of appeals against any such assessment;

(f) prescribing the penalty, which shall not exceed half the amount of the rate due and unpaid, which may be recovered under subsection (1) of section 23.

(2) The Regional Commissioner may issue order applying to a particular local government authority for all the purposes set forth in subsection (1) except that set out in paragraph (f).

(3) An order made by a Regional Commissioner under subsection (1) shall be published in such manner as is customary for the community concerned and shall not be required to, but may, be published in the Gazette.

(4) In the event of any conflict between rules made by the Minister under subsection (1) and orders made by a Regional Commissioner under subsection (2), the former, irrespective of the date of their making, shall for all purposes prevail.

[s. 31]

[PCh290s35]35. Legal proceedings

Proceeding either to enforce the payment of any rate or tax payable under the provisions of this or for the recovery of any penalties under the provisions of this Part or any subsidiary legislation made pursuant to them may, without prejudice to the right of any other person or authority to institute criminal proceedings, be taken by local government authority responsible for the collection of the rate or tax before any court of competent jurisdiction.

[s. 32]

PART IV

MANAGEMENT OF FINANCES AND RESOURCES (ss 36-54)

[PCh290s36]36. Accounting officers Act No. 6 of 1999 s. 76

Every Director of an urban authority and every Director of a district council shall be the accounting officer for the local government authority of which he is the chief executive officer and shall for that purpose, be responsible for accounting for any service in respect of which moneys have been appropriated by the authority and for issues made to the local government authority from the exchequer account.

[s. 33]

[PCh290s37]37. Powers of the Minister Act No. 6 of 1999 s. 77

A Minister shall, in relation to a local government authority under his charge, subject to the provisions of the Act and of this Act, be responsible for—

- (a) ensuring the proper management of the finances of the local government authority;
- (b) facilitating the securing of funds for the operations of the local government authority;
- (c) promoting the timely preparation of the annual budget of the authority and securing that the authority operates within the limits of the budget as prepared.

[s. 34]

[PCh290s38]38. Expenditure Act No. 6 of 1999 s. 78

(1) Subject to the other provisions of this Act, a local government authority may incur all expenditure necessary for, and incidental to, the proper carrying out of any of the functions or duties conferred or imposed on it by or under this Act or any other written law.

(2) A local government authority may instead of providing any service which it is authorised to provide make a financial contribution or management to the service board established under the local government Acts, where the board is providing the service or so that it may provide the service within the area of that local government authority.

[s. 35]

[PCh290s39]39. Reserve and special funds

(1) A local government authority may, and where the Minister so direct shall, maintain such reserve, renewal or special funds for such purposes as the Minister may approve or direct.

(2) Any special funds of a local government authority shall be deposited with the Board, subject to subsection (3).

(3) Where the Minister considers that it is necessary or expedient that any special fund or any portion of it deposited by a local government authority pursuant to subsection (2) should be returned to the authority which deposited it, he may direct that the Board return the fund or the part of it to the authority concerned within such time as he may specify in that direction.

[s. 36]

[PCh290s40]40. Advances and deposits Act No. 6 of 1999 s. 79

A local government authority may make advances and operate deposit and suspense accounts.

[s. 37]

[PCh290s41]41. Investment of funds Act No. 6 of 1999 s. 80

Subject to the provisions of this Act, a local government authority may invest any part of the moneys available in any fund of the authority in such investments as are authorised investments in relation to investment of funds by a trustee under the Trustees Investments Act *.

[s. 38]

[PCh290s42]42. Banking accounts

(1) Every local government authority shall open and keep in its name a banking account and may, with the approval of the Minister, open and keep such additional accounts as may be necessary, subject to this Act.

(2) Except as may otherwise be provided by financial memoranda, all receipts of a local government authority shall be paid into the banking account or account kept by the authority and all amounts payable by an authority shall be paid from that account or those accounts, as the case may be.

(3) A cheque upon any banking account kept and maintained by a local government authority shall be signed by such officers of the authority, not being less than two in number, as may be authorised in that behalf by resolution of the local government authority.

[s. 39]

[PCh290s43]43. Form of accounts

(1) Subject to the following provisions of this section, every local government authority shall cause to be provided, kept and maintained books of accounts and records with respect to—

(a) the receipt and expenditure of moneys by, and other financial transactions of, the authority;

(b) the assets and liabilities of the authority,

and shall cause to be made out for every financial year a balance sheet showing details of the income and expenditure of the authority and all its assets and liabilities.

(2) All books of accounts and records of all local government authorities shall, for the purpose of enabling comparative statements of revenue, expenditure and costs in different local government authorities to be prepared and to secure general uniformity in their accounts, be kept and maintained in such form and manner as may be prescribed in financial memoranda.

[s. 40]

[PCh290s44]44. Statements of accounts to be furnished

(1) For the purposes of this Act the financial year of each local government authority shall be twelve months ending on and including the thirty-first day of December of each calendar year, provided that the first financial year of each authority shall commence on the date of its establishment and may be shorter or longer than twelve months:

Provided that the Minister may, by order published in the Gazette, vary the commencement of the financial year of any local government authority.

(2) Within such period as may be appointed by the Minister from the end of each financial year, every local government authority shall cause its accounts or the preceding

financial year to be balanced and a balance sheet with respect thereto and a statement or abstract of those accounts to be prepared.

[s. 41]

[PCh290s45]45. Financial memoranda

The Minister may issue written instructions, to be known as financial memoranda, not inconsistent with the provisions of the Act or this Act, for the better control and management of the financial business of local government authorities, and for the regulation of the procedure of finance and staff committees; and such instruction may be issued either generally or respecting any particular authority or the authorities in any particular area of Tanzania, and shall be observed and carried out by the authority or authorities regarding which the instructions are issued.

[s. 42]

[PCh290s46]46. Estimates Act No. 6 of 1999 s. 81

(1) Every local government authority shall, not less than two months before the beginning of every financial year, at a meeting specially convened for the purpose, pass a detailed budget (in this Act called "annual budget") of the estimates of the amounts respectively—

- (a) expected to be received; and
- (b) expected to be disbursed,

by the authority during the financial year, and whenever circumstances so require, an authority may pass a supplementary budget in any financial year.

(2) The chief executive officer shall for the purpose of obtaining advice regarding national policies, programmes and financial regulations, arrange a meeting with the Regional Secretariat at any time before the passing of the councils' annual or supplementary budget.

(3) The annual budget and every supplementary budget shall be in such form and include such details as the Minister may direct.

(4) Where a budget is not approved or disapproved by the local government authority before the commencement of the financial year for which it is prepared, the chief executive officer of the authority concerned may authorise expenditure, in accordance with the budget up to fifteen percent of its revenue for the preceding year.

(5) Where the local government authority approves the annual budget or supplementary budget as a whole, the budget as approved shall be binding on the local government authority, which shall confine its disbursement within the items and amounts contained in the applicable estimates as approved.

(6) Subject to the provisions of any financial memoranda relating to it, a local government authority may by resolution—

(a) adjust expenditure limits to take account of circumstances not reasonably foreseeable at the time the budget was prepared;

(b) authorise the expenditure of money appropriated for any one purpose in an approved budget on any other purpose contained in the budget.

(7) Where a Local Government Authority has not, within three months of the beginning of the financial year, approve its budget, the Minister shall take such appropriate

action as he considers necessary including the, power to direct that the council shall not make any expenditure without his approval.

(8) Where at anytime during the implementation of the annual or supplementary budget it appears to the Minister that a local government authority is in contravention of any national policies, guidelines or, standards, he shall take appropriate measures to ensure that these are complied with and, for that purpose, may issue directives for the implementation of those measures, and such directives shall be binding on the local government authority.

[s. 43]

[PCh290s47]47. Access to records of local government authorities Act No. 6 of 1999 s. 82

The Regional Commissioner may authorise in writing any person to have access to the records of an authority and a person so authorised shall at all reasonable times have access to and be entitled to inspect all books of accounts and records of the authority and may advise the authority on the matters contained in them and submit a report to the Regional Commissioner in connection with the records.

[s. 44]

[PCh290s48]48. Audit of accounts Act No. 6 of 1999 s. 83

(1) The accounts of every district council, and of every urban authority, shall be audited internally by an internal auditor employed by the authority concerned, and the external auditor for each of those authorities shall be the Controller and Auditor-General.

(2) The accounts of a township authority shall be audited by such auditor as may be appointed in that behalf by the Minister, or by a public officer or local authority authorised by the Minister.

(3) The accounts of a village council shall be audited by such public officer or organisations as the district council or as the case may be urban council may in writing direct.

(4) As soon as possible after the close of the financial year of a local government authority the authority shall submit its accounts for audit to the auditors, who shall complete the audit not later than six months after the close of the financial year.

(5) Every authority shall permit the auditor to check any cash, investments or other assets in its possession or over which it has control and to have access at all times to all its accounts and all books, vouchers and papers relating to them.

[s. 45]

[PCh290s49]49. Liability for payment of audit fees

(1) Subject to subsection (2) and (3), a local government authority shall, within three months after the date of the signing by the auditor of the report on its accounts for the financial year concerned, pay to the auditor in respect of the services of the auditor such sum, not exceeding one per centum of the total expenditure of the authority which has been brought to account and reported on by the auditor for that financial year, as the Minister shall determine.

(2) Where the examination of accounts has, in the opinion of the Minister, made unusual demands on the time of the auditor as a result of unsatisfactory accounting or the occurrence of irregularities, the Minister may direct that a fee in excess of one per centum of the total expenditure of the local government authority shall be paid by the authority to the auditor.

(3) Where the auditor is not an officer or a department of the Government the sum to be paid by the authority to the auditor in respect of his services shall be such sum as may be agreed upon between the authority and the auditor.

[s. 46]

[PCh290s50]50. Power to take evidence

(1) For the purposes of any examination of the accounts of a local government authority under this Part, the auditor may take evidence and examine witnesses upon oath or affirmation, which oath or affirmation the auditor is 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 specified in the summons papers, including the minutes of the proceeding of the authority or of any committee or joint committee, as the auditor may consider necessary for the examination.

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

- (a) neglects or refuses to comply with the terms of the summons;
- (b) having appeared, refuses to be examined on oath or affirmation or to take the oath or affirmation; or

(c) having taken the oath or affirmation, refuses to answer the questions put to him,

commits an offence and is liable upon conviction, for every neglect or refusal, to a fine not exceeding six hundred shillings or to imprisonment for a term not exceeding six months.

[s. 47]

[PCh290s51]51. Auditors' report

(1) The auditor shall make and sign a report to the local government authority on the accounts and the annual balance sheet and statement or abstract, and one copy each of the report together with the annual balance sheet and statement or abstract or a copy of it shall be sent to the Minister, the Regional Commissioner and the Director who shall table the report before the council.

(2) The auditor shall, in his report, draw attention to every item of expenditure charged in the accounts which is not authorised by law or which has not been sanctioned by the Local Government Authority, and shall also draw attention to any deficiency or loss incurred by the negligence or misconduct of any person accounting and to any sum which ought to have been but has not been brought to account by that person and shall certify the amount of that unlawful expenditure, deficiency or loss, or the sum which has not been brought to account.

(3) The provisions of this section shall not be construed as being in derogation of the power to surcharge persons conferred by section 54, and for the avoidance of doubt it is hereby expressly declared that the power to surcharge may be exercised before or after

the auditor has drawn attention to any item, deficiency, loss or sum pursuant to subsection (2).

(4) A copy of the annual balance sheet and statement or abstract and of the report of the auditor in respect of local government authority shall be submitted by the Minister before the National Assembly; and may also be furnished to any inhabitant of the area of the authority concerned upon the payment of such fee, if any, as may be specified by resolution of the authority.

[s. 48]

[PCh290s52]52. Publication of accounts and audit report

Every local government authority shall at its own offices and in such other manner as may be directed by the Regional Commissioner publish within its area—

- (a) the annual balance sheet and statement of abstract; and
- (b) any report on the accounts made and signed by the auditor, within six months after the close of the financial year to which the accounts relate or within six months of the receipt of the report of the auditor, as the case may be.

[s. 49]

[PCh290s53]53. Power to sanction certain expenditure

The Local Government Authority may, subject to any provisions of financial memoranda in that behalf or to any general or specific directions of the Minister authorise any item of expenditure charged in the accounts of an authority but not authorised by law or sanctioned by him earlier and which is pointed out as such by the auditor pursuant to section 51.

[s. 50]

[PCh290s54]54. Power to surcharge

(1) In this section the expression "Permanent Secretary" means the Permanent Secretary to the Ministry responsible for local government.

(2) Where, in consequence of the audit carried out by him, an auditor becomes aware of—

- (a) any payment made without due authority according to law;
- (b) any deficiency or loss occasioned by negligence or misconduct;
- (c) any failure to observe a policy of the highest thrift;
- (d) any sum which ought to have been but was not brought to account,

he shall report the matter to the Regional Commissioner who may, in the case of expenditure, disallow the same and in other cases call in question the sum concerned, and shall make a report thereon to the Chairman or Mayor of the local government authority who shall refer the report to the relevant committee of the authority, which shall consider every such report and thereafter shall advise the Permanent Secretary, whether in the opinion of that Committee it is appropriate that any officer be surcharged in respect of the payment deficiency, loss or sum concerned, or that disciplinary proceedings be instituted against an officer, or whether a surcharge should be made and disciplinary proceedings instituted.

(3) The person surcharged may, not later than thirty days from receipt of the confirmation of the surcharge, appeal to the Minister or, where the surcharge relates to an amount exceeding two thousand shillings, to the High Court against the surcharge.

(4) The Chief Justice shall make rules governing the procedure for making appeals to the High Court under this section.

(5) Every sum surcharged pursuant to this section shall be paid into the fund from which it is taken by the person surcharged within thirty days from the date upon which confirmation of the surcharge is given, or the decision on appeal is given, as the case may be, and if the sum is not paid the authority concerned may recover the sum from the person surcharged in any competent court and shall be entitled to be paid their reasonable costs and expenses in such proceedings.

(6) In any proceedings for the recovery of a surcharged sum, a certificate by the auditor subject to such modifications as may be necessary in consequence of any decision of the Minister or the High Court on appeal shall be conclusive evidence of the amount due and payable by the person concerned, and a certificate signed by the Chairman of the authority concerned or an 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 date of the certificate.

[s. 51]

PART V

LOCAL GOVERNMENT LOANS BOARD (ss 55-65)

[PCh290s55]55. Interpretation

For the purposes of this Part, "local government authority", "local authority" and "authority", wherever they are used, shall each mean a city council, a municipal council, a district council, a town council, a township council or a village council.

[s. 52]

[PCh290s56]56. Establishment of Board

There is hereby established a board to be known as the Local Government Loans Board, which shall, for the purposes of this Act—

- (a) be a body corporate and shall have perpetual succession and an official seal;
- (b) in its corporate name, be capable of suing or being sued;
- (c) subject to this Act, be capable of holding, purchasing, or acquiring in any other way, any movable or immovable property, and of disposing of any of its property;
- (d) have power to employ officers, servants and agents.

[s. 53]

[PCh290s57]57. Constitution and procedure

(1) The Board shall consist of one member appointed by the Minister responsible for finance, and such other members as the Minister shall appoint.

(2) Every member of the Board shall hold office for three years from the date of his appointment or for such lesser period as may be specified in the instrument of his appointment; except that the appointing authority may, by notice in the Gazette, terminate the appointment of a member and appoint a replacement.

(3) The Chairman and the Vice-Chairman of the Board shall be appointed by the Minister from among the members of the Board.

(4) Whenever the Chairman of the Board is unable for reason of absence or other sufficient cause to exercise the function of his office, the Vice-Chairman shall have and may exercise all the powers and authority of the chairman.

(5) The Board shall meet at such times, places and intervals as the Chairman of the Board shall decide.

(6) At any meeting of the Board—

- (a) the Chairman of the Board shall preside;
- (b) a majority of the members of the Board shall constitute a quorum;
- (c) a decision of a majority of the members present and voting shall be deemed to be a decision of the Board;
- (d) in case of an equality of votes, the Chairman shall have a casting vote in addition to his original deliberative vote.

(7) Notwithstanding paragraph (c) of subsection (6), a decision may be made by the Board without a meeting by circulation of the relevant papers and draft resolution on them among the members, and the expression in writing of the views of the majority of the members on the papers and the draft resolution; on them among the members and the expression in writing of the views of the majority of the members on the papers and a resolution in writing signed by not less than three quarters of the members of the Board for the time being shall be as valid and effectual a decision as if decided at a meeting of the Board, and copies of all such resolutions shall be circulated to all members of the Board.

(8) Subject to the provisions of this section, the Board may make rules governing its own procedure and the procedure of any committee appointed by it.

(9) The Board may appoint a committee consisting of a member or members of the Board and may delegate to it the performance of any of the powers or duties of the Board.

[s. 54]

[PCh290s58]58. Secretary to the Board

The Minister shall appoint a public officer to be Secretary to the Board who shall be the chief executive officer of the Board in its corporate capacity.

[s. 55]

[PCh290s59]59. Application of Local Government Service Act *

The provisions of the Local Government Service Act, which relate to service by officers in the Local Government service, shall apply to the Board and to the officers of the Board in the same way and to the same extent as they apply to a local government authority and its officers or employees, subject to the provisions of this Part.

[s. 56]

[PCh290s60]60. Functions of Board

(1) The functions of the Board shall be—

(a) to receive, administer and invest the funds of the Board;

(b) to lend, out of the funds of the Board, funds to local authorities for the provision of development works and services;

(c) to provide financial assistance to local authority whether by way of grants, furnishing of guarantees or in any other way;

(d) to provide and operate services on behalf or for the benefit of local authorities.

(2) No financial assistance by way of guarantee shall be given without the approval of the Minister.

[s. 57]

[PCh290s61]61. Directions by Minister

The Minister may, after consultation with the Minister responsible for finance, from time to time, issue directions in writing to the Board as to the manner in which the Board shall effect its objects and functions, and the Board shall carry out or act in accordance with the directions, whether they are general or specific.

[s. 58]

[PCh290s62]62. Funds and resources of the Board

The funds and resources of the Board shall consist of—

- (a) such sums as may be provided by Parliament for that purpose;
- (b) such sums as may be deposited with the Board by local government authorities or as may rest in the Board in any other way;
- (c) all other receipts of the Board whether by way of interest on investments of the Board or otherwise;

(d) such donations, grants, bequests and loans as the Board may, from time to time, receive from any person or body of persons.

[s. 59]

[PCh290s63]63. Power to borrow

(1) The Board may, with prior approval of the Minister, given after consultation with the Minister responsible for finance, borrow monies for the purpose of effecting its functions, and the monies so borrowed shall constitute part of the funds and resources of the Board.

(2) A person or body of persons lending money to the Board shall not be bound to enquire whether the borrowing of the money in question has been approved by the Minister.

[s. 60]

[PCh290s64]64. Interest on deposits

The Board may pay interest to local authorities in respect of monies deposited by them with the Board at such rate as the Minister may, with the approval of the Minister responsible for finance, determine.

[s. 61]

[PCh290s65]65. Accounts and audit

(1) The Board shall cause to be provided, kept and maintained proper book of accounts and other records, and shall prepare in respect of each financial year of the Board a statement of accounts in a form prescribed or approved by the Minister.

(2) The accounts of the Board shall be audited by the Controller and Auditor General.

(3) The Minister shall, in each year, lay before the National Assembly a copy of the report on the audit.

(4) The financial year of the Board shall be a period of twelve months ending on the thirty-first day of December in each year; but the first financial year shall commence on the date of the commencement of this Act and may be longer or shorter than twelve months.

[s. 62]

PART VI

GENERAL PROVISIONS (ss 66-70)

[PCh290s66]66. Offences

It shall be an offence for any person, whether or not he is a member or an officer of a local government authority or the Board—

(a) to do any act or thing which is designed or whose probable result is to unlawfully jeopardise the finances of an authority; or

(b) to procure, or in any other way have a hand in any act or activity aimed at preventing the making or collection of rates or other revenue by a local government authority.

[s. 63]

[PCh290s67]67. General penalties Act No. 6 of 1999 s. 70 s. 84

Where any person commits an offence under this Act in respect of which no specific penalty is provided by the provision creating it, he shall be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

[s. 64]

[PCh290s68]68. Regulations

The Minister may make regulations for the better carrying into effect of the purposes and provisions of this Act and for prescribing or providing for any matter or thing which is by this Act required or permitted to be, or may be prescribed or provided for.

[s. 65]

[PCh290s69]69. Repeal of Act No. 8 of 1979

[Repeals the Village (Revenue) Act.]

[s. 66]

[PCh290s70]70. Amendments

[Amends various laws.]

[s. 67]