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External financial control by the central government and provincial administrations over local government in South Africa

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6. RATES THAT MAY BE LEVIED AND LIMITATIONS ON RATING (continued).

special provision regarding the water rate when a water service is extended thereto.

9. The Administrator may amend any proclamation in terms of which any incorporated land or any specified classes of buildings upon the land is or are exempted from rating, or renew any exemption which shall have expired subject to such conditions as he may determine in respect of rates, or withdrew any exemption.

244. Where the area of a local authority is increased to bring in an area restricted to persons of a certain class the Administrator may after consultation with and approval of the local authority, apply a differential rate taking into account the ability to pay of the persons concerned.

This may also apply to a similar area within the local authority in which the total value of rateable property does not exceed £4,000,000 (Note that special ordinances are applicable to Durban)

10 bis. The Administrator may order the levying of a rate different from the rate in the rest of the municipality, and amend such order.

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7. EXEMPTIONS FROM RATING.

108(1).In addition to exemptions under the State Property (Immunity from Rating)Act,1931 and the Rating of Railway Property Act 1959, no rate shall be imposed upon
(a) any State-owned property under the S.A.R. & H., save such as is used for purposes other than those of railways and harbours;
(b) any other State-owned property, save such as is leased to any other person or has been purchased or otherwise acquired by any person notwithstanding that no title there-to may not have been given;
(c) any land (exclusive of buildings) on which is erected a residence occupied by a minister of religion and owned by the religious body to which such minister belongs;
(d) any land which is vacant and unoccupied and held under title restricting its use to any of the purposes mentioned in (e) below.
(e) any land or building used exclusively for -
(i) religious purposes;
(ii) a university, including boarding establishments or recreation ground;

Local Authorities Rating Ordinance, 1933.

4. Rateable property shall mean and include every interest in land as defined, land, improvements, freeholders' licence, interest, and residential land, certain other mining property, except the following:

(a) Any land or interest in land the property of the Crown, provided that railway property, as defined in the Rating of Railway Property Act 1959 shall be deemed to be rateable property for or so long as and to the extent that it is not exempt from rating in terms of the Act;

(b) any interest in land used exclusively for
(1) public worship (which shall include land used for the residence of a minister);
(2) for both public worship and education;
(3) for a charitable institution supported entirely by voluntary contributions;
(4) for a hospital in receipt of a subsidy or grant from the Transvaal Provincial Administration;

113(2)The following shall be exempt from town and water rates;
(a) State-owned property, except railway property which is rateable in terms of section 2 of the Rating of Railway Property Act, 1959;

(b) immovable property -

(i) used exclusively for religious worship or educational purposes or for the purpose of a public library, museum, cemetery, crematorium or hospital;

(ii) maintained by charity or used exclusively for charitable purposes;

(c) immovable property held in trust for religious purposes;

(d) immovable property owned, leased or held in trust by an agricultural society and used by such society exclusively for the purposes set out in Act No. 24 of 1908, or Act No. 24 of 1909, or for any other purposes which the council may determine with the approval of the Administrator.

(e) immovable property to which a person became the owner before the year 1900 and in respect of which a municipal council and such owner, prior

87(1).All immovable property within a municipality, including Crown property, shall be rateable by the council.

(2)If during any five year period a general valuation had not been made in the area of a council, such council shall not have the power to levy any rates until a new general valuation has been prepared and brought into operation: Provided that the Administrator may exempt the council from the application of this sub-section for one year.

88(1) The following immovable property shall be exempt from rates:

1. Plant and machinery including tanks used or intended to be used for the manufacture or processing of any product.

2.vested in the educational or the hospital trustees (if such property is beneficially occupied in a private capacity the Administrator may make payment in lieu of rates);

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7. EXEMPTIONS FROM RATING (continued).

(iii) a college or school not conducted for the pecuniary profit of any person, etc., including boarding establishments and recreation grounds;

(iv) any charitable institution maintained by any company, society, etc.

(v) any hospital maintained by any company, society, etc.,

(vi) accommodation at the abovenamed institutions of staff whose residence is reasonably required for proper administration;

(vii) a cemetery or crematorium. Provided that:
(1) where any private profit is directly derived therefrom, the property or part thereof is liable to rates;
(2) if any rent is paid to the owner, lessee or occupier, the same shall be liable to rates;
(3) if any land or building during the year is used for any other purpose as is exempted, the council shall impose rates proportionate to the period of such use, etc.;
(4) the council may authorise the use of such properties for any specified purpose, provided there is no abuse of the objects for which the property is held.

(c) any interest in land held exclusively for an educational institution (as defined);

(d) any licence or right to dig for or prospect for precious stones or metals on land assigned for that purpose(except residential property and property not incidental to mining operations);

(e) any interest in land laid out and used for the purpose of sport or recreation (if the owner is not the user he must prove that no financial gain accrues and recreation grounds conducted for profit or as a racecourse shall not be exempt);

(f) any interest in land in a health committee area held by the Government in trust for a future municipality or reserved under any law for a health committee;

(g) any interest in land held by the Electricity Supply Commission used to supply electricity to the local authority concerned.

4.III. The Administrator may exempt improvements of one local authority in the area of another where they are necessary for electricity, water or sewerage services.

to the said year, entered into a written agreement whereby such property was exempted from town rates, or immovable property purchased prior to the first day of April, 1956, out of the proceeds of the sale of the first mentioned immovable property.

(f) immovable property owned and used by a school board, church council or a hostel, orphanage or school committee exclusively for the purpose of a hostel for the accommodation of pupils attending public or aided private schools, as defined by the Education Ordinance 1954, or an orphanage school, or of teachers employed at any such school or the staff of such hostel;

(g) immovable property used exclusively for the purpose of a hostel established to comply with the requirements of any law, provided that -

(i) where a property or a portion of a property is occupied by a person in his private capacity as lessee or otherwise, such property or portion shall not be exempt and the said person shall be liable for the rates levied thereon.

3. hired by the Administrator or school board and used as a boarding department for the boarding and lodging of pupils, or pupils and teachers(see details).

4. vested in a local authority;

5. under the control or at the disposal of a local authority;

6. used throughout the year exclusively for public worship or for public worship and educational purposes;

7. used exclusively for a university school or college not conducted for the pecuniary profit of any person including a laundry or cafeteria solely for the benefit of the institution.

8. used exclusively for public museums, art galleries, libraries and national botanical gardens;

9. used exclusively for a hospital, mental hospital, benevolent asylum, orphanage or similar institution not conducted for private profit, including workshops laundries and cafeterias

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7. EXEMPTIONS FROM RATING (continued).

(1) Dis.The council may exempt other property from rating which is being employed for any purpose of a public nature, subject to the above provisos.

2) The council may exempt and let by it under agricultural lease if it is used for bona fide agricultural, pastoral and like purposes, and buildings used solely in connection with this purpose, except dwelling houses.

3. The council may also, when assessing the general rate, provide for a reduction not exceeding one-half thereof in respect of agricultural land, and the Ordinance contains very comprehensive conditions relating to the procedure to be followed and the conditions to be observed in determining the nature of agricultural land.

4) Nothing hereinbefore contained shall be deemed to exempt any property from water, light, rubbish removal, sewerage and sanitary or other charges.

(1) Rates levied upon the site values of land shall be levied only upon one quarter of the site value of the following land:

(a) land laid out as agricultural holdings under Agricultural Holdings (Transvaal) Registration Act, No. 22 of 1919, so long as use is restricted to purely agricultural purposes.

(b) land being not less than one morgen in extent where the owner is precluded from using the land otherwise than as agricultural land;

(c) other land being not less than three morgen in extent which is bona fide and exclusively used as agricultural land (see definition).

(2) The minimum charge under this section shall be fifty cents.

(ii) where a property or portion of a property is used for the purpose whereby profit is or may be derived therefrom, such property or portion shall not be exempt from the rates, unless the council concerned is satisfied that such property is used exclusively for educational, charitable or religious purposes.

198(1)(c) For sanitary rate exemptions see Part 30 above.

for the benefit of the institution and where any profits are devoted to charitable purposes or the institution concerned.

10. used exclusively for cemeteries and crematoria;

11. beneficial improvements which increase the value for bona fide farming purposes (e.g. dipping tanks, wells, plantations, etc. etc.), excluding residential buildings.

12. the amount by which the value is enhanced by irrigation works (as defined in the Water Act 1965) for a period of fifteen years from completion;

13. set apart for any mine or mining area exclusive of buildings thereon;

14. acquired by trustees or an organisation for the benefit of disabled South African servicemen;

15. used exclusively for athletic sports and pastimes, except race-courses, and refreshment rooms and bars, the profits from which are not devoted exclusively to such sporting organisations, etc.(see details).

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7. EXEMPTIONS FROM RATING (continued).

106bis(1).The owner of any property claimed to be exempted shall be entitled to exercise the right of appeal under section 114(1) within two months.

(2) The onus of proof of exemption shall be on the person claiming exemption.

16.owned or occupied by Boy Scouts, Girl Guides or Voortrekker organisations (see details);

17. vested in a public utility company or similar organisation (not profit-making) and acquired under an approved sub-economic scheme under the Housing Act, 1920, if the council has declared itself in favour of exempting all such property within the municipality;

18. owned or occupied by an agricultural society (see details);

19.a hall normally used for church purposes, provided any profits are devoted to church purposes;

20. a church building owned by a church and used for its own purposes or let at a rental which does not exceed the expenses incurred in letting.

98(2).Exempted property shall become rateable from the date the conditions conferring exemption cease to be complied with. Property vested in the Crown, educational trustees, hospital trustees or a local authority, which is disposed of shall be rateable from the date of disposition.

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	7. EXEMPTIONS FROM RATING (continued).		89. Property vested in the Crown or local authority shall be rateable while held under a lease of not less than one year, etc. A council may by extraordinary resolution and with the Administrator's consent exempt any person affected 89(3) Immovable property within a Native location as legally defined is not subject to rating. 90. The methods and procedures for determining exemption are set out in this section. City of Cape Town Unification Ordinance, 1913: 2. No rates shall be made or levied on immovable property (other than dwellings erected after 1891) within the docks area as enclosed for customs purposes and land reclaimed from the sea and on which no dwelling house has been erected, if such property becomes the property of the Colonial Government under the Harbours Control Act, 1908, and while it is under the control of the S.A.R. & H. Exemption Exemption Ordinance 1926. 1. No rates and taxes shall be levied in respect of land used solely for athletic sports, land leased on behalf of a

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7. EXEMPTIONS FROM RATING (continued).

sporting organisation, lands registered as the property of a church but controlled by a local authority, lands used solely for the benefit of disabled ex-servicemen, buildings on any of these, provided that racecourses, refreshment rooms or bars not conducted solely for the organisation, portion of buildings used for other purposes, or of a caretaker's dwelling shall not be exempted.

4. No rates and taxes shall be payable on property owned or occupied by any agricultural society or any church or hall (see ordinance for conditions)

Taxation Exemption Ordinance 1931:

1. Immovable property owned or occupied by Boy Scouts, Girl Guides; and Voortrekkers is exempted from rates and taxes (see details.)
2. School Boarding Departments taxation Exemption Ordinance 1932. Land and buildings used for school boarding are exempt from local rates (see details.

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	7. EXEMPTIONS FROM RATING (continued).		
			231. Notwithstanding that immovable property may be exempt from rating, where a council supplied any service where it is empowered to levy a charge, such charge shall be paid as may be mutually agreed upon and approved by the Administrator, or failing agreement as may be determined by the Administrator.
	8. THE RECOVERY OF RATES.		
118. The general and water rate shall be assessed for each financial year as in section 82 and after the expiration of the period mentioned, a further notice shall be published at least twice in one or more newspapers setting forth the amounts at which rates have been assessed and the final date for payment, being not later than 30th April next ensuing. 119(1). The rates in respect of any financial year shall become due and payable one month after the first publication of the notice referred to in section 118 and shall be paid on or before the final date, except where alterations are made under section 111 or 113 when a special date may be fixed by the collector of rates.	24. Local Authorities Rating Ordinance, 1933: Every rate imposed by the local authority shall become due and payable on a date to be fixed by it, of which day and the amount of the rate the local authority shall give at least thirty days' notice in the Provincial Gazette and in a newspaper circulating in the municipality. 25(1). Whenever notice shall have been given as above, it shall be the duty of all persons liable for such rates to pay the amounts to the local authority, failing which defaulters will be liable to legal prosecution.	116. Rates become due and payable on such date or dates as may be determined by the council or other authority imposing the rate by notice in the gazette and the press. (See Part 1 for interest charges).	104(1). The council shall give at least thirty days' notice by advertisement published in the press and posted at the municipal office of the amount of every rate made and levied by it and the day on which such rate shall become due and payable. (2) If any rate remains unpaid after three months from due date, interest shall be charged at 7 per cent per annum for each month, and part of a month shall be deemed to be a month. 106(1). Interim rates become due on the date of service of the notice of assessment upon the owner. 107. See under "Recovery of Rates" re payment by instalments.

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8. THE RECOVERY OF RATES (continued).

(2) The council may agree with any ratepayer for the payment of rates by monthly instalments, and while such agreement is in force, the provisions of section 121 shall not apply.

(2)bis.Any agreement as in (2) shall notwithstanding any default remain in force.

(2) ter.A penalty shall be payable on instalments in arrear whether the same fall due before on or after the final date: Provided that no penalty shall be incurred on arrear instalments if the full amount is paid before the final date.

(2) quat.Any such ratepayer shall be deemed to be a defaulter only in respect of instalments.

(2) quin.Any penalty payable shall be deemed to be a penalty payable in terms of Section 123.

119(3).The final date, as hersinbefore provided, for the payment of rates shall not be affected by reason of any appeal in terms of Sec. 114; provided that if on appeal the value of any property shown in the valuation roll is

(2) A local authority may allow discount not exceeding 2½ per cent on rates paid on or before the due date.

(3) A local authority may charge and collect interest on arrear rates at a rate not exceeding 7 per cent per annum.

(4) Rates may be paid by instalments in such equal or varying amounts as may be determined by the local authority.

26. When an appeal is pending from the decision of a valuation court, any rates levied shall become due and payable upon the day fixed in terms of section 24, and should the valuation be altered, the local authority shall collect or refund the difference, together with the interest at the rate of 6 per cent per annum.

31.Local Authorities Rating Ordinance, 1933: The person who is the owner of any rateable property at the date when the rate becomes due and payable shall be liable for the payment of the rate. In the case of joint owners

113(1).All immovable property (except exempted property) within a municipality shall be rateable and the owners thereof shall be liable for the payment of the town and water rates levied thereon.

138(d).The sanitary rate shall be payable by the owners of immovable property in the municipality which is not exempt from such rate.

117(1).Rates levied by a council shall be a debt to such council which may in addition to the powers it may exercise in terms of sub-section (2) and (3), sue for and recover such rates by action in any court of competent jurisdiction.

(2).Whenever any rates are payable to a council by an owner, the town clerk may, after having given written notice to such owner that such rates are due and payable, order the occupier of such property by notice in writing to pay the rent to the council.

105(1).The owner of immovable property on the 15th March of each year shall be primarily liable for all rates levied during that year.

Where property becomes rateable after 15th March, the owner on the date it becomes rateable, shall be liable for rates, but only for the unexpired portion of the year. Where an interim valuation takes place, the owner at the date such rate becomes due and payable shall be liable.

105(7). Every rate made shall be a charge against the property, except in the case of property vested in the Crown or a local authority, and in the case of property taken possession of to recover rates.

105(2).If on the expiration of three months from due date, the owner primarily liable has failed to pay, a demand in writing shall be served calling on him to pay within fourteen days.

(3)Should the owner fail to comply with the demand, the following persons shall be liable for rates for such year:

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8. THE RECOVERY OF RATES (continued).

increased or decreased by the council or by the Board appointed in terms of sec. 115, or if a compromise has been reached between the valuator and the appellant, the council shall have authority to collect additional rates which may become due by reason of an increase or refund to the owner any difference in the case of a decrease in the value of the property concerned.

121. In respect of any rates remaining unpaid after the final date for their payment these shall be added for each month during which the default continues a penalty calculated at the rate of 10% p.a. and for the purposes of this section part of a month shall be deemed to be a month. Provided that with effect from 1/8/1961 such penalty shall be calculated at the rate of 12% p.a.

120(1). The rates shall be a charge upon the property and shall be payable by the owner thereof.

(2) Any person who acquires they are jointly and severally liable. In the case of an owner's absence from the province, the agent receiving rents shall be liable, provided liability does not exceed the rents actually in his possession on receipt of the notice. Whenever a property belonging to a local authority is disposed of, and the Administrator later refuses to sanction such disposition, any rates paid shall be refunded by the local authority. (See section 50 below - rates are a charge on the property).

Local Authorities Rating Ordinance, 1933:

27. If after the time fixed any person fails to pay any rate due by him, the local authority may make written demand to pay the amount within fourteen days. If a person then makes default the local authority may apply to the magistrate for a summary warrant. On production of a list of defaulters, with full details (as set out in the ordinance) the magistrate shall grant a warrant, which shall be executed as though it were a writ of execution.

(3)(a) If the rates payable to the council have been in arrear for a period of not less than five years and the owner of such property cannot be traced, such council may cause a notice giving details and stating that in default of payment the council will take possession of and sell such property, to be published once in the Gazette and once a week for three consecutive weeks in the press.

(b) If after expiration of three months after the last publication of the notice such arrear rates, and the interest thereon have not been paid, the council may take possession of such property and sell it by public auction, after proper advertising, notification to mortgagees, etc.

(c) Whenever property has been sold by a council in terms of paragraph (b), the council may give transfer of such property as if the council had been the registered owner thereof, and

(a) a person who becomes the subsequent owner;

(b) a person who is or was the occupier (up to the amount of rent due, but not yet paid);

(c) a person who as agent or otherwise receives or received rent (up to amount of the rent paid or payable to him, after deduction of commission, etc.)

(4) All such persons above, with the owner, shall be jointly and severally liable for rates.

(5) No legal proceedings shall be instituted against any of the above persons until a written demand giving fourteen days' notice is served.

(6) Any person who pays rates may recover the amount from the owner primarily liable.

106. Any owner of immovable property shall when called upon by the treasurer of the council furnish particulars regarding past or present lessees of occupiers.

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8. THE RECOVERY OF RATES (continued).

property from the State council, etc. shall be deemed to be the owner from the date of its purchase or from the commencement of any lease (Subject to the provisions of the State Property (Immunity from Rating) Act 1931, and the Rating of Railway Property Act 1959.

122(1). The town treasurer shall be the collector of rates and shall have power under that title to sue for and recover all rates which are due and payable to the council.

(2) After the first publication of the notification referred to in section 119, the collector shall give notice to the owner of every rateable property stating the amount of rates owing, etc.

(3) If the owner of any property fails to pay rates on or before the final date of payment, the collector shall call upon him to pay such rates and the penalties accrued and the collector may serve upon the tenant for the time being of the property a demand for the payment to the

28. The local authority may in its discretion, notwithstanding section 27, recover the amounts due in the court of the magistrate.

29. When rates shall remain unpaid for three months after due date, the local authority may at any time within twelve months demand the amount or any part from any tenant or occupier, to the extent of any rent due, and may recover as in the same manner as for an owner. The tenant may deduct any amounts so paid from the rent due to the owner.

30. In any proceedings for recovery, the valuation roll, rate books and records and entries, shall upon production thereof alone be prima facie evidence of the imposing of such rate.

Local Government Ordinance 1939:

49. All moneys due for sanitary services and water where water-borne sewerage has been installed shall be recoverable from the owner and occupier jointly and severally and interest on arrears may be charged at not exceeding 7 per cent per annum.

and the Registrar of Deeds shall give transfer of such property, without the production of the title deeds, if there is submitted to him a certificate by the Town Clerk that he has been unable to trace such title deeds.

(4) After the payment of the costs incurred, the balance of the proceeds of such sale shall be applied to the payment of the rates and other charges, together with interest due to such council and any balance shall be paid to the person in law entitled thereto, or in case of doubt to the Guardian's Fund.

118. Not later than the 30th day of April of every year the council shall cause (a) a statement to be prepared

(i) detailing the various amounts which were outstanding and due to such council as rates on property on the 31st day of March of such year;
(ii) describing properties in respect of which such rates were outstanding; and
(iii) specify the names of the owners of such properties.

107. If after the expiration of three months from due date the rate remains unpaid, the treasurer shall cause legal proceedings to be instituted (provided demands have been sent as required in section 105). such proceedings shall be instituted not later than 30th April in the following year or ten months after due date in the case of interim rates unless the Administrator on request authorises proceedings to be deferred. This shall not apply to persons paying by instalments over a period not exceeding nine months from due date and who are regularly paying such instalments.

109(1) If rates in respect of unoccupied immovable property have not been paid for a period of five years, the council shall cause a notice to be served on the owner and published three times in the press at intervals of one month, giving details (as set out in ordinances) and stating that in default of payment the council will take possession of such property for the purpose of selling or letting as in (2).

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8. THE RECOVERY OF RATES (continued).

collector of all rents which may accrue to the owner.

(4)(5)(6) The notice which the collector is required to give shall be given by registered post or delivery or by affixing a list of owners to the municipal notice board. Owners may notify the collector of the address to be used for notices.

(7) If any rates or penalties in respect thereof or any part of such rates or penalties shall remain unpaid after the final date for payment thereof, such rates and penalties, together with collection charges in respect thereof, may be recovered in the manner set forth in this section.

(8) At any time after the last working day of the second month succeeding the month in which there falls the final date or any special date for payment of rates in cases other than rates in respect of which an agreement in terms of subsection (2) of section 119 is of force and effect at the said final date, or in the case of rates in respect of which such an agreement is of force and

50(1).No transfer of any - premises or interest in land shall be passed or registered before any registration officer until a written statement (as scheduled) signed and certified by the town clerk or other officer authorised by the council shall be produced to such registration officer, nor unless such statement shows -

(a) that all charges for a period of three years immediately preceding the date of application for transfer due for sanitary services, or so due as basic charges for water where waterborne sewerage has been installed have been paid.

(b) that all charges if any for a period of three years immediately preceding the date of application for transfer on account of rates and taxes have been paid;

(c) that all sums, if any, due on advances in respect of water supply, electricity supply, gas supply, drainage and sewerage works, have been paid;

(b) A copy of such statement shall be posted and maintained for a period not less than 30 days in a conspicuous place at its municipal offices and

(c) a notice shall be published in the press making known that a copy of such statement has been posted.

119(1). Subject to the provisions of Section 89 of the Insolvency Act 1936 no transfer of immovable property situated within the municipality shall be passed by a registrar of deeds unless there is produced to him a certificate in the form prescribed and signed by the town clerk or other officer authorised thereto by the council of such municipality and no such certificate shall be issued unless

(a) the rates and sanitation fees which became due and payable to the council in respect of such property during the period of years immediately preceding the registration of the transfer;

(2) After one month from the last publication, the council may take possession of such property and may, by public competition advertised in the press,(a) let the property at the highest rental for a period not exceeding five years at a time,(b) if the valuation does not exceed R1000 at the highest price offered with the consent of the Administrator.

110. Property sold by the council as in section 109, vests absolutely in the purchaser, and the registrar of deeds shall register such property in the name of the purchaser.

111(1). After the payment of all costs incurred in taking possession, the proceeds s shall be applied to the payment of council and divisional council rates and other charges in respect of the property. If insufficient there shall be an apportionment between the council and divisional council in proportion to the total amount due to each.

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8. THE RECOVERY OF RATES (continued).			
effect at the said final date at any time after the last working day of the month in respect of which the last instalment is payable in terms thereof, the collector may cause to be published, in accordance with the provisions of section 110 of the Republic of South Africa Constitution Act, 1961 [illegible] or more newspapers circulating in the area of jurisdiction of the council a notice stating that, if the arrears of rates in respect of the financial year specified in the notice together with all penalties and collection charges in respect thereof up to the date of payment are not paid within six months of the date of the publication of the notice, application will be made to a court of competent jurisdiction for an order for the sale by public auction of the properties in respect of which such rates, penalties and charges are in arrear and for the payment out of the proceeds thereof of all arrear rates together with penalties, collection charges and costs in respect thereof.	(d) that all endowment moneys due by township owners have been paid. This section shall be read in conjunction with section 89 of the Insolvency Act 1936. This section shall not apply to advances made for the purchase of electric or gas stoves, refrigerators, etc. which are not normally regarded as fixtures. The town clerk or other authorised official shall supply the said statement on the demand of the owner upon payment of a charge to be fixed by the council not exceeding 20 cents for each statement. (2)(a) Charges in respect of sanitary services, rates and taxes shall be a charge upon the premises and preferent to any mortgage bond passed after this ordinance was passed. (b) A charge in respect of drainage, water, electricity, gas and sewerage works shall be a charge on the premises and shall be preferent to any mortgage bond subject to the council giving notice to the mortgagee in terms of section 142.	(b) the amounts due and payable to the council on account of costs or advances for vermin elimination charges, drainage, sewerage loans, electricity and gas loans; (c) interest due and payable on such rates etc. have except to the extent to which such amounts and interest have been written off been paid to the council. (2) The council may charge a fee not exceeding 50c for such certificate. A separate certificate shall be issued in respect of each property registered under a separate title.	(2) Any balance left over shall be paid to the person entitled to it by law, or paid into the Guardian's Fund. 112. The application of the proceeds from letting property are similar to the provisions of section 111. 113. On demand by the owner, property taken possession of but not sold, may be regained within thirty years, if all rates, costs, etc., are paid. He shall be entitled to resume possession within three months subject to any lease the council may have granted. Any remaining balance of the proceeds of lease shall be paid to the owner on his resuming possession. 114. If the owner does not resume possession within thirty years, the property shall vest in the municipality and on application by the council, the registrar of deeds shall register such property in the name of the municipality. 115. Rates which have been in arrear for a period of not less than three years may, if the council is satisfied that they are irrecoverable, be written off by the council

8. THE RECOVERY OF RA 8 (continued).

(9) Notwithstanding that notice has been given in terms of sub-section (8) in respect of the rates levied on certain properties for any financial year, the collector may give a further notice or notices in terms of subsection (8) in respect of the rates levied on other properties in respect of the same financial year.

(10) If, after publication of a notice in terms of sub-section (8), such rates, penalties and charges are not paid within the period therein stated, a court of competent jurisdiction may, upon the petition of the council showing the amounts of rates and penalties then in arrear and that the notices provided for by sub-section (2), paragraph(a) of sub-section (3) and sub-section (8) have been given, may summarily order any such rateable property, or so much thereof as may be sufficient to satisfy the amounts set forth in paragraphs (a),(b),(c) and (d) of this subsection,to be sold by public auction and the proceeds thereof to be paid into court, and direct payment to the council of -

108(1).No transfer of any immovable property shall be registered in a deeds registry unless a certificate issued by the treasurer authorising such registration is produced.

(2) A certificate shall not be issued unless the treasurer is satisfied -

(a) that the property appears separately in the valuation roll, that if it is a portion of a larger area it has been apportioned in terms of the Valuation Ordinance, 1944, or that it does not appear on the roll;

(b) that all rates and charges for sanitation services and water due for the current calendar year and for the immediately preceding two calendar years have been paid, or that it is property vested in the Crown or local authority, or that no municipal rates or sanitation charges are payable.

(c) That in terms of any agreement to which the municipality is a party relating to disposal of property has been complied with, and

8. THE [illegible] (continu

(a) all such rates and the penalties accrued in respect thereof at the date of such sale;

(b) all collection charges in terms of sub-section (11);

(c) the cost of obtaining the said order and all expenses of such sale; and

(d) any amount payable in terms of sub-section (5) of section 124;

as a prior charge and in preference to any mortgage, security or claim whatsoever (if any) affecting the property; provided that in all other respects any such sale shall be deemed to be a sale of immovable property in execution of the judgment of such court, save that it shall not be necessary to notify or consult the owner with regard to the sale or the conditions of sale.

(11) In addition to any rates and penalties in respect of any property, collection charges shall accrue as follows, namely: as from the last working days set forth in sub-section (8), an amount representing ten per centum (10%) of the capital amount of the rates then in arrear; and on the grant of an order of court

(6) that any share of street construction costs and sewerage expenses chargeable under the Ordinance and not paid, has been acknowledged by the transferee as his liability to the Council.

(7) Such certificate shall be issued free of charge and may be endorsed [illegible] power of attorney given to effect transfer or [illegible] the transfer duty receipt

6. THE RECOVERY OF RATES (contd/and).

in terms of sub-section (10), a further amount representing ten per centum (10%) of the capital amount of the rates then in arrear. The said charges shall be payable to the collector and the said amounts or such of them as may be applicable may be recovered by him in any proceedings for the recovery of rates.

(12) Nothing herein contained shall prevent the collector from taking proceedings for the recovery of any rates, penalties or charges by way of action or any other competent procedure in any court of competent jurisdiction.

(13) For the purpose of this section, working day shall mean any day on which offices of the collector are open for the receipt of payments.

125(1) The registrar of deeds shall, as soon as may be reasonably possible after every month or quarter, transmit to the town clerk a list setting forth the name of every person who during the period transferred any immovable property together with a description of the property, the transferor and the purchase price, etc. the owner shall pay

8. THE RECOVERY OF RATES (continued).

such fee as may be prescribed for each transfer entered on the list.

(2) Such returns may be made available to ratepayers in respect of appeals at a fee of two shillings and six pence.

124(1). Subject to the provisions of the Insolvency Act (section 89) no transfer or other alienation shall be registered by the registrar until there has been exhibited to him a certificate signed by the town clerk or town treasurer or other authorised officer that all rates and penalties have been paid and indicating a period during which the certificate shall be available, such period being not later than the date upon which further rates become due and payable, provided the provisions hereof shall not apply in the case of any immovable property sold in terms of Section 142.

(2) In each financial year the town clerk shall notify the registrar of the date upon which rates become due and payable.

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8. THE RECOVERY OF RATES (continued).

(3) For each certificate issued a fee of twenty five cents shall be paid to the council.

(4) The certificate referred to in sub-section (1) hereof shall also cover any amount owing to the council in terms of sub-section 2 of sec. 184 and in terms of sec. 15 of the Public Health (Amendment) Act 1928 (Act No. 15 of 1928) as amended by sec. 1 of the Public Health Amendment Act 1961 (Act No. 35 of 1961).

5(a) A certificate applied for between 1st August and the due date for payment in respect of a transfer to the Council or institution exempt from rates, shall be subject to the amount due being fixed by the collector of rates;

(b) The owner must be given notice of the amount fixed in terms of (a);

(c) Upon giving notice, the amount shall become due and payable, unless the owner is exempt, and the amount shall be deemed to be payable as rates due on that property;

(d) After transfer the council shall refund any amount paid by the owner which exceeds the amount due by him;

8. THE RECOVERY OF RATES (continued).

(e) If after the due date the council or an exempted person becomes the owner, the council may make a proportionate refund of rates paid;

(f) For the purpose of this sub-section (except (e)), the word owner shall include any person deemed to be the owner for the purposes of section 120;

(g) The provisions of this sub-section shall apply to amounts payable in terms of sections 111 or 113;

(h) The provisions of subsection (1) shall be deemed to provide that the certificate shall apply only with respect to transfer to the person named in the said certificate as the proposed transferee.

PART IV - THE STATUTORY AUDIT.

1. THE APPOINTMENT AND REMUNERATION OF AUDITORS.

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125(1).The audit of the accounts and records of every borough shall be carried out under the direction and control of the Provincial Auditor or any other person, subject to the provisions of section 22 of the Public Accountants' and Auditors' Act;1951 (Act No. 51 of 1951), whom from time to time the Administrator may appoint to carry out such audit under the control of the Provincial Auditor. (2) Where an audit is carried out under the direction and control of such other person so appointed, he shall certify the accounts in accordance with the requirements of subsection (1) of section 127 and shall transmit the originals and such copies of the financial statements and of his report on the accounts as may be required from time to time to the Provincial Auditor, who may call upon him to furnish such further information or comment and after consult with	59(1).The Administrator shall appoint a person employed in the public service to audit from time to time the accounts and records of every council and such person shall be known as the Local Government Auditor. Provided that if in respect of any council a Local Government Auditor reports to the Administrator that he is unable with the staff at his disposal to audit the accounts and records of such council for any period the Administrator may (a) after consultation with such council and the Local Government Auditor appoint a person registered in terms of the provisions of the Public Accountants and Auditors Act 1951 to audit such accounts and records during such period and such person shall act on behalf of the Local Government Auditor and be subject to this direction. (b) give such other direction as he may deem fit.	91(1) The accounts of the council shall be audited by (a) The Provincial Auditor or (b) A person who is registered as an accountant and auditor in terms of the Public Accountants' and Auditors' Act 1951, and has, with the approval of the Administrator, been appointed by the Council to carry out such audit under the control of the Provincial Auditor. 91(3).Whenever the accounts of a council for any financial year have been audited by an auditor referred to in 91(1)(a), the council shall, within three months from the date on which the auditor has issued his certificate in terms of 92(3) in respect of such audit, pay to the Administrator such an amount not being less than ten rand or more than one per cent of the total expenditure of the council	Local Authorities Audit Ordinance, 1938: 3. The accounts of every local authority shall be audited under the control and direction of the provincial auditor by - (a) a member of the staff of the provincial auditor, or (b) a person registered as an accountant or auditor under the Public Accountants' and Auditors' Act 1951, and appointed by the Provincial Auditor. 12.No report made or action taken or thing done in good faith and without negligence in the exercise of any power conferred or the performance of any duty shall subject an auditor in his personal capacity to any legal proceedings whatsoever. Local Authorities Audit Ordinance, 1938: 15(1).Every Local authority

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1. THE APPOINTMENT AND REMUNERATION OF AUDITORS (continued).

the appointed auditor, require the report to be presented in accordance with the policy of the Administrator.

(3) The Provincial Auditor shall thereafter furnish such financial statements and report to the Administrator and the Council as required by sub-section (2) of section 127.

( ) If in the opinion of the Administrator it is desirable or necessary to do so, he may appoint, subject to the provisions of sub-section (1), one or more accountants registered in terms of the Public Accountants' and Auditors' Act, 1951 (Act No. 51 of 1951), to audit in conjunction with the Provincial Auditor or other person referred to in sub-section(1) the accounts of any particular borough.

(5) Any appointment made by the Administrator under the provisions of sub-sections (1) and (4) shall be subject to such terms and conditions and for such period as shall be specified in the letter of appointment.

59(10). The Council shall pay to the Administrator within three months from the date of signing and certifying the accounts such sum as the Administrator may determine as having been the cost of the audit provided that the amount shall not exceed one per cent of the normal expenditure as certified by the auditor subject to a minimum of R10. An additional amount may be included for non-audit work when for effective audit the accounts required to be completed, adjusted or balanced by the auditor.

59(11). The fee to be paid to an auditor who is not the employee of the public service shall be determined by the Administrator after consultation with the council concerned, and when due shall be paid either annually or quarterly to such person by the council which shall immediately thereafter advise the Administrator thereof.

as brought to account and certified by the auditor for such financial year, as may be determined by the Administrator to cover the costs of such audit; the Administrator may require the council to pay such further amount as the Administrator may consider necessary to cover the costs of work performed by such auditor which is, in the opinion of the Administrator, not of an audit nature.

shall pay to the provincial administration on receipt of the audited statements an audit fee, to be based on the estimated cost including overhead expenses of the audit. When additional work is undertaken not foreseen when the fee was fixed the provincial auditor may demand an additional fee.

(2) Where the accounts of a local authority require to be completed adjusted or balanced by the provincial auditor a special fee shall be paid by the local authority.

(3) The amount of every audit fee, additional fee or special fee shall be determined by the provincial auditor in consultation with the council, and if they fail to agree the matter shall be referred to the Administrator whose decision shall be final. The audit fee once determined shall remain unchanged for three years, after which it may be reduced or increased.

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	1. THE ADMINISTRATION AND REGULATION OF AFFAIRS (continued).		
(6) The term 'Provincial Auditor' as used in the Ordinance shall, except in this section, mean the Auditor of Accounts of the Province or such other person as may be appointed by the Administrator in terms of sub-section (1) or (4), as the case may be, and the word 'auditor' shall mean the person referred to in sub-sections (1) and (4) as the context may require.	59(12). Local authority audit fees, other than those referred to in (11) shall accrue to the provincial revenue fund.		(4) No audit fee shall exceed one per cent of the total capital and revenue expenditure of the local authority actually paid during that year. No municipality's audit fee shall be less than R20.
190. The council shall pay to the Administrator, yearly within three months from the date of the auditor's signing his yearly certificate, such sum as the Administrator may from time to time determine, on the basis of the cost of carrying out of the provisions of the ordinance, not being more than one per cent of the total expenditure of the borough which has been brought to the account and certified by such auditor for the financial year; provided that such shall not in any case be less than R10.			

2. THE AUDITOR'S DUTIES.

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127(1). The auditor shall not less than once in every year audit and examine the accounts and treasurer's balance sheet and accounts, and shall certify whether or not - (a) the accounts of the borough are in order; (b) separate accounts of all trading undertakings have been kept, and that every charge which should appear has been dealt with; (c) the accounts present a true and correct view of the financial position of the borough, of its transactions, and of the results of the trading; (d) due provision has been made for redemption of borrowed moneys; (e) the amounts set aside for depreciation and obsolescence of plant are adequate; (f) the value of assets has been fairly stated, that they are being dealt with in accordance with statutory power and that all items of revenue and expenditure and all known liabilities and assets have been brought into account;	59(4). Any person appointed in terms of paragraph (a) of the proviso to sub-section (1) shall in respect of any audit conducted by such person make an audit report in writing to the Local Government Auditor and shall in addition certify in respect of each financial year whether or not in his opinion (a) the council has kept proper books and records; (b) separate accounts for all trading undertakings (if any) and any special accounts prescribed in terms of this Ordinance or any other law have been kept; (c) the accounts issued by the council present a true and fair view of the position of the council and its transactions and of the results of its trading (if any); (d) due provision has been made for the redemption of borrowed monies	92(1). The audit of the accounts of a council shall be carried out in accordance with the regulations made by the Administrator in terms of Section 89 for the conduct of audits, and the auditor shall in particular - (a) examine, enquire into and audit accounts and balance sheets prepared in terms of 79(2) and the books and accounts kept by persons entrusted with the receipt, custody or issue of monies, securities or other property of the council or for which the council is responsible; (b) satisfy himself that all reasonable precautions have been taken to safeguard the proper collection of and accounting for monies due to the council and that the laws and regulations relating to the collection and payment of monies have been duly observed.	Local Authorities Audit Ordinance, 1938; 4(4). The audit shall be either a continuous audit or a completed audit as theprovincial auditor may determine. (5) Surprise examination of cash, books, etc., shall be carried out as the provincial auditor may determine. He may report to the council or the Administrator on the result. (6) Any gross irregularity shall be communicated by the provincial auditor to the mayor or chairman with the utmost dispatch. (7) The provincial auditor may confine the audit to a test examination where he considers it reasonable and expedient. (1) In carrying out the audit the auditor shall in particular - (a) examine, enquire into and audit the statements, books and accounts of all persons entrusted with the receipt, custody and issue of moneys, etc.

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2. THE AUDITOR'S DUTIES (continued).

(g) all his requirements and recommendations, as auditor, have been complied with and carried out.

With regard to (e) and (f) the auditor may accept as correct certificates of value and estimated life of plant as furnished by the technical advisers of the council, and of the value of assets furnished by the assessors on valuations of the borough, which certificates it shall be the duty of the treasurer to obtain and submit.

(2) The auditor when certifying as above, shall submit a report to the Administrator and the council as to any matters of importance and interest arising out of the audit.

2.bis. The Provincial Auditor shall prepare and submit annually to the Administrator a signed report on the financial aspects of the work of local authorities which the Administrator shall present to the Provincial Council.

(e) the accounts set aside for depreciation and obsolescence of plant or other assets are adequate;

(f) the accounting procedures of the council have been such as to ensure that the value of assets acquired from revenue have been clearly stated;

(g) the details of the several registers and personal accounts have been reconciled with ledger balances;

(h) the provisions of all laws relating to the transactions of the council as disclosed in its accounts and records have been complied with and all his requirements and recommendations as Auditor have been complied with and carried out.

59(5).The Local Government Auditor shall -

(a) in respect of any audit conducted by himself make a report in writing to the Administrator and shall in addition in respect of each financial year furnish to the Administrator a certificate relative to such audit in respect of all the matters referred to in subsection (4), or

(c) Satisfy himself that all expenditure brought into account is supported by sufficient vouchers, authority and proof of payment;

(d) satisfy himself that the title deeds and securities of the council are in order and that provision has been made for the redemption of loans and the depreciation of assets.

(2).As soon as possible after the audit of the accounts of a council has been completed the auditor shall transmit to the councilcopies of the accounts and balance sheets prepared in terms of 79(2), certified by the auditor who conducted the audit together with a report of the audit. A special report may at any time be submitted to the council in connection with any matter arising from the audit of the accounts of such council.

(3).Copies of the accounts, balance sheets and reports transmitted to the council shall at the same time be transmitted to the Provincial Secretary by the Auditor.

(b) satisfy himself that reasonable precautions have been taken to safeguard the proper collection of and accounting for moneys payable to the local authority;

(c) satisfy himself that the laws and regulations relating to the collection and payment of moneys have been observed;

(d) satisfy himself that all expenditure brought to charge is supported by sufficient vouchers, authority and proof of payment;

(2) The auditor shall conduct the audit in accordance with regulations covering audits made by the Administrator.

6. Where the provincial auditor considers an adjustment necessary, he may inform the council of the adjustments he requires. Thereafter the provincial auditor may order the adjustment to be made, and if the local authority is dissatisfied it may refer the matter to the Administrator whose decision shall be final.

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2. THE AUDITOR'S ENTRIES (continued).			
	(b) in respect of any audit conducted by a person appointed in terms of paragraph(a) of the proviso to sub-section (1) submit a copy of the audit report and certificate received by him from such person in terms of sub-section (4) to the Administrator together with his comments (if any) therein which shall be deemed to form part of such report. 59(6). The Director of Local Government appointed in terms of the Local Government Control Ordinance 1958 shall cause the relative Abstract of Accounts of the council and a copy of any report referred to in sub-section (5) to be forwarded to the town clerk of such council.	An auditor may if he thinks fit send accounts to the debtors of a council.	7. The provincial auditor shall submit certified copies of the statements and a report to the council and to the provincial secretary. When the audit is conducted by a private firm (see 3(A) the reports etc. shall be submitted to the Provincial Auditor first, who shall submit them with his report to the Provincial Secretary and the council concerned. The provincial auditor shall submit annually to the Administrator for presentation to the provincial council a report on the accounts and transactions of the various local authorities. 18. The Administrator may make regulations for the conduct of audits, and these lay down what must be audited and what the duties of auditors are e.g. that Sinking Fund Contributions are adequate, provision for depreciation is adequate, etc.

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3. THE AUDITOR'S POWERS.			
128(1) The auditor may hear and examine witnesses upon oath, and by summons under his hand require such persons as he may think fit to appear before him and produce all books, etc., as may be necessary for the audit. (2) Any person refusing to attend and to answer questions shall be guilty of an offence and liable on conviction to a fine not exceeding R40 for every such offence. A conviction shall not excuse the person from the obligation to do the act required of him or from being liable to be convicted again. (3) The above references to oaths include any form of declaration allowed by law.	60. The auditor may hear and receive evidence and examine witnesses upon oath, and by summons under his hand require such persons as he may think fit to appear personally before him and to produce all such books, etc., as may be necessary for audit. Any person refusing to attend and to answer questions shall be liable to a fine not exceeding R40 for every such offence. A conviction under this section shall not exempt a person to do or perform the act or from being successively convicted for every distinct commission of the same act or offence.	94(1). The auditor may for the purpose of an audit under the ordinance - (a) summon any person who may, in his opinion be able to give information for the purpose of such audit or whom he suspects to have in his possession or custody or under his control any book, document or thing which may be required in connection with such audit, to appear before him at any time and place specified in the summons, to be questioned or to produce such book, document or thing. (b) call and administer an oath to or take an affirmation from any person appearing before him who was or might have been summoned in terms of (a) and may question him and require him to produce any book, document or thing in his possession or custody or under his control which may be required in connection with such audit. (c) keep for inspection any book, document or thing thus produced.	Local Authorities Ordinance 1935: 11(1). The auditor may examine upon oath such persons as he may think fit and by summons under his hand require such persons to appear personally before him and to produce all such books, accounts, etc. as may be necessary for the audit. The information obtained therefrom together with supporting documents shall be forwarded to the provincial auditor for perusal and action. (2) Any person refusing to attend without lawful excuse or refusing to be examined, or to take oath or affirmation, or refusing to produce documents, etc., or answer questions shall be guilty of an offence and liable to a penalty not exceeding R40 or in default of payment to imprisonment with or without hard labour for a period not exceeding three months. No conviction shall exempt a person from doing the things required herein, or from being convicted again.

3. THE AUDITOR'S POWERS (continued).

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129(1). The auditor shall disallow every payment or exemption made without due authority according to the law and if the disallowance raised by him is not adjusted or covered within the period fixed by him, he shall surcharge the same upon every person making or authorising such payment or exemption, and shall surcharge against every person liable therefor the amount of every deficiency or loss incurred by the negligence or misconduct of any such person, or of any sum which ought to have been brought into account, and he shall in every case where he has raised a surcharge certify the amount due from such person.

Pecuniary responsibility for a surcharge shall rest -

(a) with the treasurer, or officer acting as such, if the disallowance arises from a clerical or arithmetical error in any account, etc., prepared by him or passing through his hands (provided that in the latter case the

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61(1). If the auditor is of the opinion that (a) there has been a failure to collect monies owing to the council (b) monies have been improperly paid out or expenses improperly incurred or payment not duly vouched (c) a deficiency in or destruction of or damage to monies, securities, stores etc., of the council has occurred (d) by failure to carry out a specific duty a loss has been caused to the council and if a proper explanation be not furnished, he may disallow the amount involved.

(2) A council which is aggrieved at a disallowance may within one month after the accounts and audit report have been laid before the council, or within such further period allowed by the Administrator, make application to the Administrator for withdrawal or reduction of the disallowance and the Administrator may withdraw or reduce the disallowance.

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(2). Any person who refuses to be sworn or to affirm as witness or fails without sufficient cause to answer all questions lawfully put to him or to produce any book, document or thing or gives a false answer to any question or makes a false statement or hinders or prevents any person from attending in obedience to any summons shall be guilty of an offence.

96(1). An auditor may -

(a) if a council has made a payment or incurred a charge without due authority according to law, surcharge the person who made, incurred or authorise the payment or charge with the amount thereof;

(b) if any deficiency or loss was incurred by a council as a result of the misconduct or negligence of a person, surcharge such person with the amount thereof; or

(c) if there was a failure to bring into account any sum due to the council, surcharge the person responsible for such failure with the amount thereof.

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Local Authorities Audit Ordinance, 1938:

9(1). Where it appears to the provincial auditor that

(a) money has been improperly paid or a charge has been improperly incurred or a payment or charge is not duly vouched;

(b) any deficiency has occurred in collecting, accounting for, receiving, issuing, or preserving any money or other property, he may disallow the amount.

(2) If a council is dissatisfied with a disallowance it may apply to the Administrator for relief, and he may grant relief in whole or in part.

(3) Every disallowances shall be recovered by the council, and if the provincial auditor is of opinion that recovery should be effected from any councillor or employee he may indicate the person liable.

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3. THE AUDITOR'S POWERS (continued).

error was one he was in a position to detect), or from the payment of any claim which has already been paid, or from any payment of exemption is contrary to law (except where this is done on explicit instruction from the council after the irregularity had been pointed out to it);

(b) with the councillors or members of a committee, when any payment or exemption was made upon their instructions given as aforesaid.

(2) If any person so surcharged shall fail to adjust or recover such surcharge within the time prescribed, the auditor shall report to the council and Administrator. The council shall submit to the Administrator a recommendation thereon, who may relieve the person in default of such surcharge, or may sue or direct the council to sue the person for the recovery of the amount. Any such suit may be brought on behalf of the Administrator by the provincial secretary and the costs recovered from the council.

(3).The council shall recover every amount disallowed within a period specified from the person responsible or other person who in the opinion of the council is liable.

(4).If the council fails to recover any amount disallowed the auditor may surcharge any person responsible and such surcharge shall be a debt due from such person.

(5).If the amount of a surcharge is not paid, the Local Government Auditor shall notify the Administrator who shall instruct the council to recover the amount by the institution of action in a competent court, and the Administrator may himself recover the amount at the expense of the council.

(6).The Local Government Auditor may at any time withdraw or reduce a disallowance or surcharge.

(7).Any person who is dissatisfied with a surcharge made against him, may within one month after he has been notified of the surcharge appeal

(2).For the purposes of paragraph (a) of sub-section (1) a councillor shall be deemed to have authorised a payment or charge if such councillor was present at the meeting of the council or of any committee of the council at which the resolution was taken to authorise such payment or charge, unless it is recorded in the minutes of such meeting that he voted against such resolution; no surcharge shall be made against a person who ceased to be a member of the council at least one year prior to the disallowance of the amount involved.

(3) The Administrator may remit the whole or any part of the amount surcharged against a person in terms of 96(1).

(4).A surcharge made in terms of section (1) shall be a debt due to the council by the person against whom it was made, and may also, if it has not been paid to the council within fourteen days after the surcharge was made, be recovered by an auditor by action in any competent court at the expense and for the account of the council.

(4).Where the council has failed to adjust an allowance within the prescribed period, the provincial auditor may surcharge the councillor or employee with the amount.

(5).Where the provincial auditor considers more than one person responsible for the disallowance he may surcharge the persons pro rate, who are alive and solvent.

(6).A person surcharged may within one month appeal to the Administrator. The provincial auditor shall submit an explanatory statement to the Administrator. The Administrator may grant relief in whole or in part.

(7).Any disallowance or surcharge may be withdrawn by the provincial auditor if proper vouchers or information are supplied.

(8).Any amount included in the accounts which have been disallowed or surcharged shall be held in suspence pending adjustment.

10.The amount of every surcharge, if not paid within

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5. THE AUDITOR'S POWERS (continued).

(3).If any councillorliable ceases to be a councillor, he shall be discharged from liability and surcharge unless the surcharge is made before the expiry of one year from the date on which he ceased to be a councillor.

(4).Any sum so recovered shall be paid to the treasurer and brought to proper account.

(5).The persons making or authorising an illegal payment shall include all councillors or members of a committee of the council who were present at the time the resolution authorising such payment was carried and who did not cast their votes against that resolution and cause such votes to be recorded, but shall not include the council or a committee thereof in its corporate capacity.

126.The town treasurer shall lay before the auditor the accounts and balance sheets referred to in section 81, the minute books and all accounts with all vouchers and all books, reports, certificates, papers and wirtings relating thereto.

to the Administrator and the Administrator shall if on the merits of the case the surcharge was not rightly imposed etc.,make an order setting aside such surcharge, or make an order releasing the applicant wholly or in part from such surcharge as may appear reasonable.

(5).The expression 'person responsible' shall include any member, official or employee of the council who did, is responsible for or authorised the act or omission and every such member who was present at the meeting of the council or committee and who did not cause his vote against to be recorded in the minutes.

59(2).The council shall cause to be produced to the person conducting the audit all books and statements of accounts and balance sheets of the council, together with all vouchers in support thereof and all books and writings and minute books in its power relating thereto but these may at no time be removed from the offices of the council without its express sanction.

91(2).A council shall through its Town Clerk make available to an auditor such books, accounts or documents of the council which the auditor may require for the purpose of an audit in terms of 91(1).

89(1)(a).The Administrator may promulgate regulations (not inconsistent with the ordinance) with regard to (a) the conduct of audits; (b) prescribing the forms of statement mentioned in the ordinance;(c) custody of moneys, securities or other property;(d) the proper collection and due payment of moneys by councils; (e) prescribing any act to be performed to facilitate audit or to reduce time spent on audit.

109(2).The auditor is competent to send accounts to the debtors of the council.

the time prescribed shall be reported by the provincial auditor to the Administrator who shall sue or direct council to sue the person in default in court for the recovery of the amount.

15.Where a voucher is defective or lost or destroyed, the Administrator may make an order dispensing with the production of the voucher, or otherwise, and such order shall be accepted by the provincial auditor as satisfying the requirements of audit.

16.The provincial auditor may admit and allow vochers not properly stamped according to law, but he shall furnish full particulars to the Department of Inland Revenue

Local Authorities Audit Ordinance, 1938:

4(3).Every council shall when required by the auditor produce the statements required in section 5 and all books, vouchers, etc.

5.The council shall complete a statement of ledger balances each half year - if the

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131. It shall be lawful for any council upon a resolution being passed at an ordinary meeting to have an examination or audit made of the borough accounts or any part thereof by such persons as it may think proper, but this shall not affect the holding of the audit provided for above.	3. THE AUDITOR'S POWERS (Continued). 59(13). The Administrator may from time to time make regulations (a) governing the audit of the accounts and records of a council; (b) prescribe the form of the audit report and the abstract of accounts or (c) generally in respect of all matters which he considers necessary or expedient for achieving the objects and purposes of audit.		audit is a continuous one, the Administrator may on the request of the local authority dispense with this requirement. 14. The council shall immediately advise the provincial auditor when a shortage of funds or other property is discovered and steps as set out in the ordinance must be taken. 17. Every council shall once a year cause stock to be taken of all stores and other loose property and a report (as set out) submitted to the auditor. The report must include a detailed statement of stores which have not moved since the previous stocktaking. 18. Local Authorities Audit Ordinance, 1938. The Administrator may make regulations (a) for the conduct of audits; (b) prescribing the form of statements; (c) for the custody and preservation of moneys, etc.; (d) for the proper collection and payment of moneys; (e) prescribing means of facilitating or expediting audits.

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	4. PUBLICATION OF ACCOUNTS AND AUDITORS REPORTS.		
(3).Within twenty-one days after receipt thereof, the auditor's certificate and report, together with copies of the aggregate balance sheet and summary of accounts referred to in section 81 shall be exhibited on the public notice board at the town office for a period of thirty days. The treasurer shall publish a notice in a newspaper that the documents are so exhibited and that a copy of each will be furnished to any person subject to payment of a fee (if any) at a rate not exceeding one shilling per folio. (4).The Administrator shall call upon the council for an explanation on any matter referred to in the auditor's report.	59(7).The town clerk shall immediately upon receipt from the Director of Local Government of the Abstract of Accounts of the council and audit report submit the report to the Mayor or Chairman of the Finance Committee or to both and thereafter lay the report before the Finance Committee at its next ensuing meeting by means of an agenda in which it shall be embodied verbatim. 59(8).Within the period of three months after the abstract of accounts and audit report have been laid before the Finance Committee, the town clerk shall lay before the council at a meeting thereof such abstract and report by means of the agenda in which the abstract and report shall be embodied verbatim. 59(9).Within fourteen days after such meeting the council has been held the town clerk shall furnish a copy of the agenda to the editors of at least one Afrikaans and one English newspaper circulating within the municipality.	93(1). Within three months after the receipt of the accounts, balance sheets and report transmitted to the council in terms of 92(2), the said documents shall be laid before the council for consideration and thereafter be verified by the signature of the chairman of the meeting and filed for record purposes. (2).As soon as possible thereafter the council shall cause a copy or extract, as certified by the treasurer, of such accounts and balance sheets and a similar certified copy of such report to be made available for inspection by the public for a period of three months at the municipal office and the town clerk shall give notice thereof in the press.	Local Authorities Audit Ordinance, 1938: 8(1).At the first ordinary meeting of the council after receipt of the certified financial statements and audit report, the same shall be laid before the council and not later than the next succeeding meeting be examined and settled by the council and the statements so dealt with shall be verified by the signature of the chairman of the meeting and be filed for record. (2).A copy of the statements certified and verified as above or an abstract thereof or a notice that they are available for inspection shall be posted on the local authority's notice board for a period of at least one month, and such statements shall be open to inspection by the public during office hours.

PART V - MISCELLANEOUS.

1. CONTRACTS.

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134. The council may enter into contracts for the purpose of any work, undertaking or service which it is by this ordinance or any other law empowered to execute, and for the supply of goods for any of its requirements. The council may not exempt any party with whom it contracts from the operation of any laws, but shall on the contrary stipulate that the contract shall be carried out subject to such laws. 136(1). Before any contract for the supply of any goods or for any work, undertaking or service involving an estimated expenditure in any calendar month of R500 or more where total rateable value does not exceed R4,000,000, or R1000 or more for any borough is entered into by the council, public tenders shall be called for, of which not less than seven clear days' notice shall be given by advertisement published in one or more newspaper and posted on the public notice board at the town office expressing the purpose of the proposed contract.	35(1). Before a council enters into any contract for the execution of works or the purchase and sale of goods to the value of R1000 or upwards, it shall give at least 14 days notice of its intention in a newspaper circulating in the municipality (as contemplated in the Republic of S.A. Constitution Act 1961 Section 110), and by affixing on a notice board at the council's office and in two or more conspicuous places. The notice must express the purpose of the contract, and it must invite persons to submit tenders. The foregoing provisions shall not apply where (a) the council (after considering a report of the Finance Committee or Management Committee) or (b) the Finance or Management Committee where it has power to act on behalf of the council, is of the opinion that the proposed contract is an emergency or is a special case of necessity for which the calling of tenders should be dispensed with.	143(1). Before entering into a contract for the execution of any work or the supply of any goods, involving an amount in excess of - (a) R1000, in the case of a council whose income during the preceding financial year exceeded one hundred and fifty thousand rand; or (b) R500, in other cases, a council shall call for tenders by notice published in the press and posted at the municipal office, and such notice shall specify - (i) the purpose of the proposed contract and give such particulars thereof as the council may deem fit; and (ii) the closing time and date for the receipt of such tenders which shall not be less than fourteen days after the publication of such notice. (2). The tenders shall be opened in public immediately after the closing time on the closing date.	221(1). Before entering into any contract for the execution of any work or for the supply of any goods or materials, involving an amount of R500 or more, the council shall call for tenders by notice published in the press and posted at the municipal office, and such notice shall (a) state the purpose of the proposed contract (b) give such particulars of the proposed contract as the council may deem fit (c) require all tenders to be submitted in a sealed envelope upon the outside whereof is clearly marked that such envelope contains a tender and for which contract such tender is being submitted (d) state the closing date for the receipt of such tenders, which date shall be not less than fourteen days after the date of publication of such notice, and (e) specify the place where and the time when such tenders will be opened.

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1. CONTRACTS (continued).

(2).The council may accept the proposal which in view of all the circumstances appears to be most advantageous to the borough, or may refuse to accept any tender or part of a tender. (Subject to Section 137).

If any other than the lowest tender is accepted, the council shall cause the reasons for its decision to be recorded in the minutes of its proceedings.

(3).The provisions of subsection (1) shall not apply to contracts for advertisements or in any case of emergency or otherwise,in which the council by resolution sets forth the circumstances and declares that it would be against the best interests of the borough to invite public tenders, or to orders or contracts placed outside the Union or to purchase at public auction.

(4).The council may enter into contracts or agreements for any of the like purposes aforesaid with any local or other public authority without the necessity for calling for tenders (Public

(2).The council shall not consider any such tender or conclude the contract until full and identical particulars have been supplied to every person applying to the council therefor within three days after such notice was first published or affixed. Such particulars shall be supplied by the council within ten days after the notice was published or affixed.

(3)(a) Subject to (3) bis, (3) ter and (3) quat the council shall accept the tender which appears to be the most advantageous, and may demand security and shall not be compelled to accept any tender;

(b) The town clerk shall notify acceptance by means of a notice affixed to the council's notice board.

(3)bis (a) Tenders for goods shall be reduced to a comparative basis by deducting the preferences as set out hereunder;

(b) The prefernces for goods produced in the Republic shall be as set out in (3) ter.;

(3) A council may accept the tender, or any portion of a tender, which in view of all the circumstances appears to it to be the most advantageous, or may reject all the tenders.

(4) The provisions of subsection (1) shall not apply to -

(a) any contract in regard to any matter of such urgency as it would be against the interests of the municipality to delay: Provided that before a council confirms such contract the finance committee shall submit a report to it in which are stated the reasons for not inviting tenders, and such report shall be attached to the resolution and entered in the minutes of the council;

(b) any contract relating to the publication of notices and advertisements of the council;

(c) purchases on behalf of the council at sales by public auction or public tender;

1 (A). At the time and place specified the town clerk or a person duly authorised by him shall - publicly open all envelopes clearly marked as containing tenders for the contract concerned, endorse on the tenders the date and time of such opening and place his initials on such tenders, and cause a list of the names of all persons who have submitted tenders to be made and posted in a conspicuous place at the municipal office. Any person who opens an envelope clearly marked at a time or place other than the time or place provided for shall be guilty of an offence.

(2).The council shall accept the tender or any portion of a tender which in all the circumstances appears to it to be the most advantageous to the municipality provided that the council may reject all tenders and not consider the tender of any person who canvasses the support of any councillor in favour if his tender. In comparing tender prices the council shall allow the same preferences as

1. CONTRACTS (continued).

authority includes any organisation, institution, association or company which conducts a sheltered employment factory, provided such is subsidised by the Government Social Welfare Department).

(5) Whenever the council shall have purported to have entered into a contract without compliance with the provisions of sub-sections (1) and (2), it may with the prior approval of the Administrator make payment of the amount that would have been due had the provisions been observed, or such less amount as may be determined by the Administrator. Before granting approval the Administrator shall make an enquiry, and if necessary appoint a person to investigate. If he is satisfied that the failure to comply was due to negligence or misconduct, he may direct the council to take disciplinary action against the officers concerned (including reprimand, reduction of emoluments, a fine, or dismissal).

(c) Where all goods are produced in the Republic, a preference of 2½% shall be accorded to goods with the SABS mark and shall be additional to the preferences in (3) Ter.;

(d) If only imported goods are in issue, 1% preference shall be given for stocks held in the Republic.

(3) Ter. Preferences for South African against imported goods shall be given on a sliding scale, from 1% where local content is not in excess of 5%, to 10% where local content exceeds 80% of the tender price (see ordinance for full details). Tenderers must certify the respective percentage claimed and the council may demand a sworn statement.

(3) Quat. Once tenders are reduced to a comparative basis, the council shall accept the lowest tender: Provided that the matter may be submitted to the Administrator if a tender other than the lowest is recommended for acceptance.

(d) the purchase of goods from the Government of the Republic or from any organisation, institution, association or company which conducts or controls a sheltered employment factory subsidised by the said Government.

are provided in the tender regulations of the provincial administration.

(3). The provisions of subsection (1) shall not apply to -

(a) any contract in regard to any matter of such urgency as it would be against the interest of the municipality to delay;

(b) any contract with regard to the publication of notices and advertisements;

(c) any orders which the council may consider it necessary or expedient to place outside the Union;

(d) purchases on behalf of the council at public auction sales or by competitive tender;

(e) the sale on behalf of the council of goods and materials by public competition, notice of which shall have been published in the press and posted at the municipal office at least fourteen days before such sale.

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1. CONTRACTS (continued).

157(1) In comparing tender prices to ascertain which is the most advantageous, the council shall give preference in accordance with the tender regulations of the Provincial Administration.

(2) If a tenderer claims a preference which is proved to be too high, the council may recover damages and/or impose a penalty.

Provided further that where tenders are equal, preference shall be given for such factors as domicile of agents, source of raw materials etc. (See ordinance for full details).

In the case of equality in all respects, preference shall be given to goods produced in the Transvaal.

(4) Where such a contract is entered into over £1000 without being put up to public tender the reason shall be formulated by the council before the resolution to enter into a contract has been passed and such reasons shall be incorporated in the said resolution and shall form part thereof.

(5) These provisions shall not apply to any contract for the purchase by the council of produce or other perishable goods bought on a public market or to any purchase as the result of bidding at a public auction. Ordinance 40 of 1961: Section 70. The words "Management Committee" are substituted for "Finance Committee" where management committees are established.

(f) Any contract in respect of which the council has resolved that compliance therewith would not be in the public interest and the Administrator has authorised it to dispense with such compliance.

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2. APPOINTMENT OF FINANCE AND MANAGEMENT COMMITTEES.			
70(1). The council shall appoint out of its own body a finance committee and may appoint such other committees and constitute them as it may think fit, and may delegate to any such committee any powers and duties as it may think fit. (2). Each committee shall report its proceedings to the council, and its decision shall not be binding unless and until specially authorised by the council. 2.bis. If the council resolves that decisions of committees to whom powers are delegated are binding and the Administrator approves, they shall be binding. Such delegation shall not apply to excess expenditure or to the making of contracts beyond the powers delegated, nor shall any delegation derogate from the laws relating to tenders. (4). Every such committee may be dissolved at any time by a majority vote of the council.	29. The council shall from time to time appoint a finance committee for regulating and controlling the finances of the council. Every payment from the funds of the council shall be made by the finance committee who shall not less than once in every three months submit to the council a schedule of payments made. The Local Government (Administration and Election) Ordinance No. 40 of 1960. 70. In respect of any town or village council for which a management committee has been established, section 29 shall be deemed to have been repealed. The term "Management Committee" is substituted for "Finance Committee" in other parts of the Ordinance. 51. There shall be established for each town council a management committee to be responsible for the administration of matters affecting the council, unless the Administrator proclaims that this shall not apply to a particular town council.	63. Subject to the provisions relating to Management Committees, a council may not appoint a standing committee but it may appoint an ad hoc committee. 66A. For every council there shall be established a Management Committee. 66B(1). The council may delegate powers to the Management Committee except the confirmation of the annual estimates and their revision, the levying of rates, the levying of fees, the raising of loans, certain appointments and the making and amending of by-laws and regulations. 66B(2). The functions of the Management Committee are to report monthly to the Council, control the collection of revenue and expenditure of money on the approved estimates, prepare the annual and revised estimates make recommendations to the council on matters dealt with by it and referred to it and ensure that the resolutions of the council is carried out.	57. The council may appoint occasional and standing committees either for general or special purposes, and may appoint chairmen, fix the quorum, delegate powers, withdraw delegations, discharge members of a committee or discontinue a committee. Municipality of Capetown Administration Ordinance No. 24 of 1965. 5. The council shall elect an Executive Committee of five and may delegate specified powers except the confirmation of estimates, the levying of rates, the raising of loans and the making of regulations and certain appointments. 7. The Executive Committee shall control the collection of revenue and expenditure in the confirmed estimates and prepare draft estimates.

NATAL	TRANSVAAL	ORANGE FREE STATE	CAPE PROVINCE
	2. APPOINTMENT OF FINANCE AND MANAGEMENT COMMITTEES (continued).		
70.bis. The council may with the Administrator's approval delegate to any officer any powers conferred on the council except powers which must be exercised by the council itself and subject to the limitations above re excess votes etc. Any powers of the council to make by-laws or regulations shall not be delegated.	57. The functions of the Management Committee are to ensure that council resolutions are carried out, to consider any matter entrusted to it by the council and to make recommendations thereon, to prepare estimates of revenue and expenditure, to make appointments except those laid down to control expenditure of all moneys voted by the council in its approved estimates and all other moneys or funds made available to the council, and to report monthly to the council on the carrying out of all its functions. 58. The council may delegate further functions to the Management Committee other than the power to make by-laws, levy or reduce rates, levy or reduce tariffs or fees or raise loans. Powers may be further delegated to certain committees, and to officers, on the conditions set out in the ordinance.		10. Standing Committees as laid down may be appointed for making recommendations to the Executive Committee.

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3. APPOINTMENT OF TREASURERS.			
145. The Council shall appoint a town clerk and a town treasurer and both offices may be held by one person. The council shall also appoint a medical officer of health and a sanitary inspector; (Subject to the provisions of the Public Health Act 1919) and may appoint any other officers. No officer holding the post of town clerk, town treasurer, medical officer of health, town engineer, or head of any department shall be removed from office except by a majority of the full council. The removal of or reduction in emoluments of a town clerk, town treasurer, or town engineer shall be subject to the approval of the Administrator. (The removal of a medical officer of health or sanitary inspector is subject to the provisions of the Public Health Act).	62. The Council shall appoint a town clerk and medical officer of health (subject to the provisions of the Public Health Act 1919) and such other officers as it may consider necessary, and pay salaries and allowances to these, provided that the salaries and allowances of the town clerk shall be subject to the approval of the Administrator. (In terms of the Local Government Administration and Elections Ordinance 1960, the salary of the town clerk shall at all times be higher but not more than 10% higher than the next highest paid officer unless the Administrator otherwise directs). No officer holding the post of town clerk, medical officer of health, town treasurer, town engineer or town electrical engineer shall be removed from office except by the majority at a special council meeting, and the removal of or reduction in salary (except the medical officer of health who is covered under the Public Health Act 1919) shall be subject to the approval of the Administrator.	67. The council shall appoint a town clerk, a treasurer and such other employees as it considers necessary. The offices of town clerk and town treasurer may be held by one person; the salary and allowances payable to the town clerk, or the town clerk and treasurer, is subject to the approval of the Administrator, and shall at all times be higher than the next highest paid employee unless the Administrator otherwise determines. 72. The dismissal of a town clerk, treasurer or town engineer, or any reduction in emoluments, is subject to the approval of the Administrator.	69(1). The council shall appoint a town clerk, a treasurer and such other employees as may be necessary. The offices of town clerk and treasurer may be held by one person. (2). The council shall not reduce the emoluments or alter the conditions of service of its chief administrative officer, without the consent of such officer or of the Administrator.

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4. ACQUISITION OF IMMOVABLE PROPERTY.			
178(1).The council may with the approval of the Administrator acquire immovable property by purchase or lease within or without the borough provided that, subject to section 21 dealing with the pecuniary interests of councillors, the Administrator's consent shall be required for the acquisition of any such property - (a) from the Government of the Union; or (b) from any other local authority; or (c) if the total value of rateable property in the borough does not exceed R4,000,000 and the purchase price of the immovable property to be acquired does not exceed R500 or in the case of a lease the annual rental does not exceed R50. (d) if the total value of rateable property in the borough exceeds R4,000,000 and the purchase price of the immovable property to be acquired does not exceed R1500 or in the case of a lease the annual rental does not exceed R80.	79(24)(a).The council may with the consent of the Administrator acquire by voluntary purchase or hire any land, right-of-way, water right or any other property or servitude within or without the municipality. The Administrator's consent is not necessary where merely nominal consideration passes. (b).The council may acquire land, etc., by voluntary purchase at a sale in execution, without the consent of the Administrator, provided the price paid shall not exceed the sum of the judgment debt and costs. Municipalities Powers of Expropriation Ordinance No.64 of 1903 confers powers on municipalities to expropriate property subject to the procedure set out in the Ordinance.	74.The ownership of immovable property to which the inhabitants of a municipality shall have or acquire a common right shall vest in the council of such municipality. 75(1).A council may, with the approval of the Administrator, acquire by purchase or lease or otherwise immovable property or rights in respect thereof, including the right to take or use water, within or outside its municipality, for any purpose within the powers conferred upon the council under this Ordinance. The approval of the Administrator shall not be required if no consideration or, in the case where the value of the property acquired by purchase is recorded in the municipal valuation roll, a consideration not exceeding such recorded valuation passes in respect of such acquisition. (2)(a).Before approving of an acquisition in terms of sub-section (1), the Administrator may require the council to submit the proposition to a meeting of owners of rateable property.	128.With the prior approval of the Administrator and subject to the conditions laid down by him, a council may by purchase, exchange, donation, gift or otherwise acquire within or outside the municipality immovable property or rights thereof. The cost of acquisition for any purpose other than a municipal purpose shall be met from the general revenue of the council.

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4. ACQUISITION OF IMMOVABLE PROPERTY (continued).

(ii) The council may accept a gift or conveyance of immovable property either absolutely for the borough or upon trust for the borough or upon trust for charitable or other public purposes not connected with public worship, hold and administer such property.

(b) The meeting shall be convened by the council by notice published in the Gazette and the press not less than fourteen days and not more than twenty-eight days before the date fixed for the meeting, and the notice shall set out the place, date and hour of the meeting and the terms of the resolution to be submitted for the consideration of the meeting.

(c) The mayor or any other councillor appointed by the council shall preside at the meeting which may either reject or approve of, but not amend, the resolution.

(d) If the majority of owners present and voting at a meeting -

(i) reject the resolution, the acquisition shall not be approved; or

(ii) approve of the resolution the Administrator shall approve of the acquisition.

76. A council may, with the approval of the Administrator, expropriate within or outside its municipality land or rights in respect thereof, including the right to take or use water, for any purpose within the powers conferred upon

NATAL	TRANSVAAL	ORANGE FREE STATE	CAPE PROVINCE
	4. ACQUISITION OF IMMOVABLE PROPERTY (continued).		
		the council under this Ordinance. The provisions of Section 75(2)and (3) shall apply in connection with any such expropriation.	
	5. THE DISPOSAL OF MOVABLE ASSETS.		
138(1).Except where movable assets are disposed of at tariff charges or in terms of the ordinance, they may not be disposed of except by sale at public auction(of which notice as set out shall be given) or by public tender(subject to notice being given, etc.). (1)bis. The council may dispose of any movable asset (a) under any contract entered into in terms of subsections (1) and (2) of section 136 and including in its terms provision for a trade-in or exchange of such asset; provided that separate tenders for the purchase of such asset must be invited and any tenderer desiring to acquire such asset on a trade-in or exchange basis must submit a tender -	79(18)(a).The council may let, sell, or in any other way alienate or dispose of any movable property.	85(1).Unless otherwise approved by the Administrator, the proceeds of the sale of movable property of the council shall be credited to the fund from which the property was originally purchased.	221(3)(e).Conditions re contracts need not be observed when goods are sold by public competition (see above under contracts). 225. Proceeds from the sale of assets must first be credited to loan accounts (see above under Redemption of Loans).

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