



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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No. 11390

KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1325.

6 Julie 1988

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 75 van 1988: Wet op die Beroep van Stadsklerke, 1988.

No. 1325.

6 July 1988

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 75 of 1988: Profession of Town Clerks Act, 1988.

WET

Om voorsiening te maak vir die instelling van 'n Raad vir Stads klerke; vir die registrasie van professionele stads klerke, geregistreerde stads klerke en voornemende stads klerke; en vir aangeleenthede wat daarmee in verband staan.

*(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 23 Junie 1988.)*

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Woordomskrywing

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
 - (i) “adviserende onderwyskomitee” die Adviserende Onderwyskomitee vir 5
Stads klerke ingestel by artikel 14; (iv)
 - (ii) “boekjaar”, met betrekking tot die raad, die boekjaar in artikel 11 (1)
vermeld; (vi)
 - (iii) “geregistreerde stads klerk” ’n stads klerk wie se naam in die register bedoel
in artikel 18 (1) (b) voorkom; (xiv) 10
 - (iv) “Federasie” die Federasie van Munisipale Werkgewersorganisasies; (v)
 - (v) “hierdie Wet” ook ’n regulasie daarkragtens uitgevaardig en ’n kennisge-
wing daarkragtens afgekondig; (xvii)
 - (vi) “Instituut” die Instituut van Stads klerke van Suidelike Afrika; (vii)
 - (vii) “Minister” die Minister van Staatkundige Ontwikkeling en Beplanning; 15
(ix)
 - (viii) “plaaslike owerheid” ’n plaaslike owerheid soos bedoel in die Wet op die
Bevordering van Plaaslike Owerheidsaangeleenthede, 1983 (Wet No. 91
van 1983), en enige ander owerheid of liggaam wat deur die raad by
kennisgewing in die *Staatskoerant* as ’n plaaslike owerheid vir die doel- 20
eindes van hierdie Wet erken word; (viii)
 - (ix) “professionele stads klerk” ’n stads klerk wie se naam in die register bedoel
in artikel 18 (1) (a) voorkom; (xi)
 - (x) “raad” die Raad vir Stads klerke ingestel by artikel 2; (ii)
 - (xi) “register” enige register bedoel in artikel 18 (1); (xiii) 25
 - (xii) “registrasiekomitee”, die registrasiekomitee ingestel ingevolge artikel 7 (1)
(a) (i) (bb); (xvi)
 - (xiii) “registrateur” die Registrateur aangestel ingevolge artikel 8 (a) (i); (xv)
 - (xiv) “stads klerk”, met betrekking tot ’n plaaslike owerheid, die hoof- uitvoe-
rende amptenaar van ’n plaaslike owerheid ongeag die ampsbenaming van 30
die pos wat daardie amptenaar beklee; (xviii)
 - (xv) “tugkomitee” die tugkomitee ingestel ingevolge artikel 7 (1) (a) (ii); (iii)
 - (xvi) “Vereniging” die Vereniging van Administratiewe Hoofamptenare van
Plaaslike Owerhede; (i)
 - (xvii) “voornemende stads klerk” ’n persoon wie se naam in die register bedoel in 35
artikel 18 (1) (c) voorkom; (xii)
 - (xviii) “voorgeskrif” of “voorgeskrewe” by regulasie kragtens hierdie Wet
uitgevaardig, voorgeskryf. (x)

Instelling van Raad vir Stads klerke

2. Hierby word ’n regspersoon met die naam die Raad vir Stads klerke ingestel. 40

ACT

To provide for the establishment of a Town Clerks' Council; for the registration of professional town clerks, registered town clerks and prospective town clerks; and for matters connected therewith.

*(Afrikaans text signed by the State President.)
(Assented to 23 June 1988.)*

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless the context otherwise indicates—

- 5 (i) "Association" means the Association of Chief Administrative Officers of Local Authorities; (xvi)
- (ii) "council" means the Town Clerks' Council established by section 2; (x)
- (iii) "disciplinary committee" means the committee appointed in terms of section 7 (1) (a) (ii); (xv)
- 10 (iv) "education advisory committee" means the Education Advisory Committee for Town Clerks established by section 14; (i)
- (v) "Federation" means the Federation of Municipal Employers Organizations; (iv)
- (vi) "financial year", in relation to the council, means the financial year mentioned in section 11 (1); (ii)
- 15 (vii) "Institute" means the Institute of Town Clerks of Southern Africa; (vi)
- (viii) "local authority" means any local authority referred to in the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983), and any other authority or body recognized by the council by notice in the *Gazette* as a local authority for the purposes of this Act; (viii)
- 20 (ix) "Minister" means the Minister of Constitutional Development and Planning; (vii)
- (x) "prescribed" means prescribed by regulation made under this Act; (xviii)
- (xi) "professional town clerk" means a town clerk whose name appears in the register referred to in section 18 (1) (a); (ix)
- 25 (xii) "prospective town clerk" means a person whose name appears in the register referred to in section 18 (1) (c); (xvii)
- (xiii) "register" means any register referred to in section 18 (1); (xi)
- (xiv) "registered town clerk" means a town clerk whose name appears in the register referred to in section 18 (1) (b); (iii)
- 30 (xv) "registrar" means the Registrar appointed in terms of section 8 (a) (i); (xiii)
- (xvi) "registration committee" means the committee appointed in terms of section 7 (1) (a) (i) (bb); (xii)
- (xvii) "this Act" includes any regulation made or any notice published thereunder; (v)
- 35 (xviii) "town clerk", in relation to a local authority, means the chief executive officer of a local authority regardless of the designation of the post occupied by that officer. (xiv)

Establishment of Town Clerks' Council

- 40 2. There is hereby established a juristic person to be known as the Town Clerks' Council.

Wet No. 75, 1988

WET OP DIE BEROEP VAN STADSKLERKE, 1988

Samestelling van raad

3. (1) Die raad bestaan uit die volgende lede, wat deur die Minister aangestel moet word, naamlik—

- (a) vier stadsklerke, een uit elke provinsie, wat lede is van en deur die Instituut aangewys word; 5
- (b) vier stadsklerke, een uit elke provinsie, wat lede is van die Vereniging en deur die uitvoerende komitee van die Vereniging aangewys word; en
- (c) drie stadsklerke deur die Koördinerende Raad ingestel by artikel 2 van die Wet op die Bevordering van Plaaslike Owerheidsaangeleenthede, 1983 (Wet No. 91 van 1983), aangewys. 10

- (2) (a) Die in subartikel (1) (a), (b) en (c) bedoelde organisasies moet so gou doenlik na die inwerkingtreding van hierdie Wet die stadsklerke aanwys wat volgens voorskrif van daardie artikel vir lidmaatskap van die raad aangewys moet word.
- (b) Wanneer 'n aanwysing ingevolge subartikel (1) (a), (b) of (c) daarna nodig 15 word, moet die registrateur die betrokke organisasie skriftelik versoek om, binne 'n tydperk deur hom bepaal, soveel stadsklerke aan te wys as wat deur dié organisasie vir lidmaatskap van die raad aangewys moet word.
- (c) Indien die betrokke organisasie in gebreke bly om, nadat hy aldus versoek is, binne genoemde tydperk of die verdere tydperk wat die registrateur 20 toelaat, soveel stadsklerke aan te wys as wat aldus aangewys moes word, stel die Minister, na oorlegpleging met elke genoemde betrokke organisasie, 'n lid van die raad aan in die plek van die lid wat deur daardie organisasie aangewys moes word.

(3) Vir elke lid van die raad word 'n plaasvervangende lid op dieselfde wyse as 25 sodanige lid aangestel om, gedurende die afwesigheid van daardie lid of sy onvermoë om as lid op te tree, as plaasvervanger vir die lid op te tree.

Kwalifikasies van lede van raad, ampsontruiming en vulling van vakatures

4. (1) Niemand word as 'n lid of plaasvervangende lid van die raad aangestel nie indien hy— 30

- (a) nie 'n Suid-Afrikaanse burger is nie;
- (b) 'n ongerehabiliteerde insolvent is;
- (c) te eniger tyd skuldig bevind is aan 'n misdryf waarvan oneerlikheid 'n element is en ten opsigte waarvan hy gevonnissen is tot gevangenisstraf vir 'n tydperk van ses maande of langer sonder die keuse van 'n boete en 35 sodanige vonnis nie opgeskort is nie;
- (d) te eniger tyd weens onbehoorlike gedrag uit 'n vertrouensamp verwyder is;
- (e) nie ingevolge hierdie Wet geregistreer is nie.

(2) 'n Lid of plaasvervangende lid van die raad ontruim sy amp indien—

- (a) hy ophou om aan die vereistes in subartikel (1) bedoel, te voldoen; 40
- (b) hy volgens die reg as 'n geestesongestelde aangehou word;
- (c) in die geval van 'n lid of plaasvervangende lid bedoel in artikel 3 (1) (a) of (b), hy ophou om 'n lid van onderskeidelik die Instituut of die Vereniging in daardie artikel bedoel, te wees;
- (d) in die geval van 'n lid, hy sonder verlof van die raad van meer as drie 45 agtereenvolgende vergaderings van die raad afwesig was of, in die geval van 'n plaasvervangende lid, hy aldus afwesig was van drie agtereenvolgende vergaderings van die raad terwyl hy verplig was om daardie vergaderings by te woon; of
- (e) hy ophou om 'n stadsklerk te wees. 50

(3) Indien 'n lid of plaasvervangende lid van die raad sterf, of by skriftelike kennisgewing gerig aan die registrateur bedank, of uit hoofde van enige van die bepalings van subartikel (2) van hierdie artikel ophou om so 'n lid te wees, word die vakature gevul deur die aanstelling deur die Minister, behoudens die bepalings van artikel 3 (2), van iemand anders as 'n lid of plaasvervangende lid, na gelang van die 55 geval, en elke lid of plaasvervangende lid wat aldus aangestel word, beklee sy amp vir die onverstreke gedeelte van die tydperk waarvoor die betrokke lid of plaasvervangende lid aangestel was.

(4) Subartikel (1) (e) tree in werking 12 maande na die inwerkingtreding van hierdie Wet. 60

PROFESSION OF TOWN CLERKS ACT, 1988

Act No. 75, 1988

Constitution of council

3. (1) The council shall consist of the following members, who shall be appointed by the Minister, namely—

- 5 (a) four town clerks, one from each province, who are members of and designated by the Institute;
 - (b) four town clerks, one from each province, who are members of the Association and designated by the executive committee of the Association; and
 - 10 (c) three town clerks designated by the Co-ordinating Council established by section 2 of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983).
- (2) (a) The organizations referred to in subsection (1) (a), (b) and (c) shall as soon as practicable after the commencement of this Act, designate the town clerks required by that section to be designated for appointment as members of the council.
- 15 (b) Whenever any designation in terms of subsection (1) (a), (b) or (c) becomes necessary thereafter, the registrar shall request the organization concerned in writing to designate, within a period determined by him, as many town clerks as may be required to be designated by it for membership of the council.
- 20 (c) If after having been so requested the organization concerned fails to designate, within the said period or such further period as the registrar may allow, so many town clerks as were so required to be designated, the Minister shall, after consultation with every said organization concerned,
- 25 appoint a member of the council in the place of the member required to be designated by that organization.

(3) For every member of the council an alternate member shall be appointed in the same manner as such member to act during the absence of such member or his inability to act as a member, as an alternate for such member.

30 Qualifications of members of council, vacation of office and filling of vacancies

4. (1) No person shall be appointed as a member or an alternate member of the council if he—

- (a) is not a South African citizen;
 - (b) is an unrehabilitated insolvent;
 - 35 (c) has at any time been convicted of an offence of which dishonesty is an element and in respect of which he was sentenced to imprisonment for a period of six months or longer without the option of a fine and such sentence was not suspended;
 - (d) has at any time been removed from an office of trust on account of improper conduct; or
 - 40 (e) is not registered in terms of this Act.
- (2) A member or an alternate member of the council shall vacate his office if—
- (a) he ceases to comply with the requirements referred to in subsection (1);
 - (b) he is according to law detained as a mentally ill person;
 - 45 (c) in the case of a member or an alternate member referred to in section 3 (1) (a) or (b), he ceases to be a member of the Institute or the Association, respectively, referred to in that section;
 - (d) in the case of a member, he has been absent from more than three consecutive meetings of the council without the leave of the council or, in the case of an alternate member, he has been so absent from three consecutive meetings of the council while it was his duty to attend those meetings; or
 - 50 (e) he ceases to be a town clerk.

(3) If any member or alternate member of the council dies, or by notice in writing addressed to the registrar resigns, or by virtue of any of the provisions of subsection (2) of this section ceases to be such member, the vacancy shall be filled by the appointment by the Minister, subject to the provisions of section 3 (2), of another person as a member or an alternate member, as the case may be, and every member or alternate member so appointed shall hold office for the unexpired portion of the period for which the member or alternate member concerned was appointed.

60 (4) Subsection (1) (e) shall come into operation 12 months after the commencement of this Act.

Wet No. 75, 1988

WET OP DIE BEROEP VAN STADSKLERKE, 1988

Ampstermyn van lede van raad

5. 'n Lid of plaasvervangende lid van die raad beklee sy amp vir 'n tydperk van vier jaar en kan by die verstryking van sy ampstermyn deur tydsverloop, behoudens die bepalings van artikel 3 (2) (b) en (c), heraan gestel word.

President en vise-president van raad

5

6. (1) Die lede van die raad kies op die eerste vergadering van elke nuut-saamgestelde raad en daarna wanneer dit nodig word, uit hul midde 'n president en 'n vise-president van die raad, en die president en die vise-president beklee hul amp vir 'n tydperk van twee jaar.

(2) Indien die president om die een of ander rede nie kan optree nie, moet die 10 vise-president, indien hy dit kan doen, in sy plek optree.

(3) Indien die president en die vise-president van 'n vergadering van die raad afwesig is of nie as voorsitter kan optree nie, moet die aanwesige lede een uit hul midde kies om op daardie vergadering voor te sit, en die persoon aldus gekies om voor te sit, kan gedurende daardie vergadering en totdat die president of vise- 15 president sy ampspligte hervat, al die pligte van die president verrig.

Komitees van raad, en vergaderings**7. (1) Die raad—****(a) stel—****(i) uit sy lede—**

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(aa) 'n uitvoerende komitee aan bestaande uit die president en vise-president van die raad, wat onderskeidelik die voorsitter en ondervoorsitter van daardie komitee is, en twee ander lede om die bevoegdhede en pligte van die raad uit te oefen en te verrig wat die raad van tyd tot tyd bepaal; 25

(bb) 'n registrasiekomitee aan bestaande uit twee lede om die bevoegdhede uit te oefen en die pligte te verrig wat hom by artikel 22 verleen of opgelê word;

(ii) 'n tugkomitee aan bestaande uit—

(aa) 'n voorsitter, wat 'n lid van die raad is; 30

(bb) twee persone wat ingevolge hierdie Wet geregistreer is maar wat nie lede van die raad is nie;

(cc) twee persone deur die Federasie aangewys; en

(dd) een persoon aangewys deur die plaaslike owerheid wat die persoon in diens het ten opsigte van wie 'n ondersoek ingevolge 35 artikel 25 ingestel word;

om die bevoegdhede uit te oefen en die pligte te verrig wat hom by artikel 25 verleen of opgelê word; en

(b) kan uit sy lede—**(i) *ad hoc*-komitees; en**

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(ii) onderkomitees,

aanstel om die bevoegdhede uit te oefen en die pligte te verrig wat die raad van tyd tot tyd bepaal; en

(c) stel die voorsitter aan van elke *ad hoc*-komitee of onderkomitee in paragraaf (b) bedoel.

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(2) 'n *Ad hoc*-komitee of onderkomitee in subartikel (1) (b) bedoel, kan van tyd tot tyd 'n persoon wat nie 'n lid van die raad is nie, as 'n lid van die komitee of onderkomitee koöpteer, hetsy vir 'n bepaalde tydperk of met betrekking tot 'n bepaalde aangeleentheid wat deur daardie komitee of onderkomitee oorweeg word, en genoemde gekoöpteerde lid kan aan die verrigtings op 'n vergadering van daardie 50 komitee of onderkomitee gedurende genoemde tydperk of met betrekking tot genoemde aangeleentheid, na gelang van die geval, deelneem, maar is nie geregtig om op so 'n vergadering 'n stem uit te bring nie.

(3) In die afwesigheid van die voorsitter van 'n komitee in subartikel (1) van hierdie artikel bedoel, is die bepalings van artikel 6 (3) *mutatis mutandis* van 55 toepassing, en by sodanige toepassing word 'n verwysing na president geag 'n verwysing na voorsitter te wees.

PROFESSION OF TOWN CLERKS ACT, 1988

Act No. 75, 1988

Tenure of office of members of council

5. A member or alternate member of the council shall hold office for a period of four years and shall at the expiration of his period of office by effluxion of time be eligible, subject to the provisions of section 3 (2) (b) and (c), for reappointment.

5 President and vice-president of council

6. (1) The members of the council shall at the first meeting of every newly constituted council and thereafter as the occasion arises, out of their number elect a president and a vice-president of the council, and the president and the vice-president shall hold office for a period of two years.

10 (2) If for any reason the president is not able to act, the vice-president, if able to do so, shall act in his stead.

(3) If the president and the vice-president are absent from any meeting of the council or not able to preside, the members present shall elect one of their number to preside at that meeting, and the person so elected to preside may during that
15 meeting and until the president or vice-president resumes duty, perform all the duties of the president.

Committees of council, and meetings

7. (1) The council—

(a) shall appoint—

20 (i) from its members—

(aa) an executive committee consisting of the president and vice-president of the council, who shall be the chairman and vice-chairman, respectively, of that committee, and two other members to exercise such powers and to perform such duties of the council as the council may from time to time determine;

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(bb) a registration committee consisting of two members, to exercise the powers and perform the duties conferred or imposed upon such committee by section 22;

(ii) a disciplinary committee consisting of—

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(aa) a chairman, who shall be a member of the council;

(bb) two persons registered in terms of this Act but who are not members of the council;

(cc) two persons designated by the Federation; and

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(dd) one person designated by the local authority which employs the person in respect of whom an inquiry in terms of section 25 is instituted,

to exercise the powers and perform the duties conferred or imposed upon it by section 25; and

(b) may appoint from its members—

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(i) *ad hoc* committees; and

(ii) sub-committees,

to exercise such powers and perform such duties as the council may, from time to time, determine; and

(c) shall appoint the chairman of every committee or sub-committee referred to in paragraph (b).

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(2) An *ad hoc* committee or sub-committee referred to in subsection (1) (b) may from time to time co-opt any person who is not a member of the council, as a member of the committee or sub-committee, whether for a particular period or in relation to a particular matter dealt with by that committee or sub-committee, and
50 such co-opted member may take part in the proceedings at a meeting of that committee or sub-committee during the said period or in relation to the said matter, as the case may be, but shall not be entitled to vote at such meeting.

(3) In the absence of the chairman of any committee referred to in subsection (1) of this section, the provisions of section 6 (3) shall *mutatis mutandis* apply, and in
55 such application a reference to president shall be deemed to be a reference to chairman.

Wet No. 75, 1988

WET OP DIE BEROEP VAN STADSKLERKE, 1988

(4) Die eerste vergadering van die raad word op die tyd en plek gehou wat die dan dienende President van die Instituut bepaal, en daarna word vergaderings van die raad op die tyd en plekke wat die president van die raad bepaal, gehou, maar op so 'n wyse dat minstens twee vergaderings in elke jaar gehou word.

(5) Die eerste vergadering van genoemde uitvoerende komitee word op die tyd en plek wat die president van die raad bepaal, gehou en minstens twee vergaderings van daardie komitee word in elke jaar gehou.

(6) Die tugkomitee, die registrasiekomitee en enige *ad hoc*-komitee en onderkomitee vergader na gelang van omstandighede.

(7) Die kworum vir 'n vergadering van die raad is die meerderheid van die lede van die raad.

(8) 'n Besluit van die meerderheid van die lede van die raad aanwesig op 'n vergadering van die raad maak 'n besluit van die raad uit, en in geval van 'n staking van stemme het die president of die persoon wat op daardie vergadering voorsit, benewens sy beraadslagende stem, 'n beslissende stem.

(9) Die registrateur laat notule hou van die verrigtinge van die raad en van elke komitee en onderkomitee daarvan, en die notules van al sodanige verrigtinge, saam met die registers, boeke, dokumente en opgawes van die raad, word deur die registrateur bewaar.

Bevoegdhede en pligte van raad**8. Die raad—****(a) moet—**

- (i) 'n Registrateur, wat ook as sy sekretaris moet optree, en die ander persone wat hy vir die bereiking van sy oogmerke nodig ag, aanstel;
- (ii) die diensvoorwaardes, besoldiging en toelaes en die bevoegdhede en pligte van die registrateur en die ander werknemers van die raad bepaal;
- (iii) na oorlegpleging met die adviserende onderwyskomitee die opvoedkundige en ander kwalifikasies en vereistes vir die registrasie van persone ingevolge hierdie Wet bepaal;
- (iv) die ander bevoegdhede uitoefen en die ander pligte verrig wat ingevolge hierdie Wet aan hom verleen en hom opgelê word; en

(b) kan, behoudens die bepalinge van hierdie Wet—

- (i) die wyse waarop die vergaderings van die raad en enige in artikel 7 (1) bedoelde komitee of onderkomitee belê moet word, die prosedure wat by daardie vergaderings gevolg moet word en die kworum vir vergaderings van so 'n komitee of onderkomitee bepaal;
- (ii) die vorm van 'n register, sertifikaat of dokument wat ingevolge hierdie Wet gehou, voorsien of uitgereik moet word, bepaal en die vorm van so 'n register, sertifikaat of dokument van tyd tot tyd verander of wysig;
- (iii) 'n registrasiegeld wat betaalbaar is deur enigiemand wat registrasie ingevolge hierdie Wet verlang, enige jaarlikse geld betaalbaar deur enigiemand wat ingevolge hierdie Wet geregistreer is, sowel as die vervaldag vir sodanige betaling, bepaal;
- (iv) 'n gedragskode of etiese reëls bepaal, die oortreding waarvan aan die kant van 'n persoon geregistreer ingevolge hierdie Wet skandelijke, onbehoorlike of onbetaamlike gedrag uitmaak;
- (v) in samewerking met die Instituut, die stappe doen of die handeling verrig wat hy nodig ag om die beroep van die stadsklerk te bevorder en te verbeter, met besondere verwysing na die professionele opleiding van persone wat ingevolge hierdie Wet geregistreer is;
- (vi) wetgewing betreffende die amp van stadsklerk en persone wat kragtens hierdie Wet geregistreer is, bevorder of teenstaan;
- (vii) een of meer professionele tydskrifte met betrekking tot die raad se oogmerke uitgee;
- (viii) roerende of onroerende eiendom koop of by wyse van ruiling, donasie, geskenk of andersins verkry en dit van die hand sit;
- (ix) geld teen die sekuriteit van enige roerende of onroerende eiendom van die raad leen;
- (x) die raad se fondse in enige depositonemende of finansiële instelling of in effekte, sekuriteite, skuldbriewe, verbande of ekwiteite belê;

PROFESSION OF TOWN CLERKS ACT, 1988

Act No. 75, 1988

- (4) The first meeting of the council shall be held at such time and place as the President for the time being of the Institute may determine, and thereafter meetings of the council shall be held at such times and places as the president of the council may determine, but in such manner that at least two meetings are held in each year.
- 5 (5) The first meeting of the said executive committee shall be held at such time and place as the president of the council may determine, and at least two meetings of that committee shall be held in each year.
- (6) The disciplinary committee, the registration committee and any *ad hoc* committee and sub-committee shall meet as circumstances may require.
- 10 (7) The quorum for any meeting of the council shall be the majority of the members of the council.
- (8) A decision of the majority of the members of the council present at a meeting of the council shall constitute a decision of the council, and in the event of an equality of votes the president or person presiding at that meeting shall have a casting vote
- 15 in addition to his deliberative vote.
- (9) The registrar shall cause a record to be kept of the proceedings of the council and of every committee and sub-committee thereof, and the registrar shall have custody of the records of all such proceedings, together with the registers, books, documents and records of the council.

20 Powers and duties of council

8. The council—
- (a) shall—
- 25 (i) appoint a Registrar, who shall also act as its secretary, and such other persons as it may deem necessary, for achieving its objects;
- (ii) determine the conditions of service, remuneration and allowances and the powers and duties of the registrar and the other employees of the council;
- 30 (iii) after consultation with the educational advisory committee, determine the educational and other qualifications and requirements for the registration of persons in terms of this Act;
- (iv) exercise such other powers and perform such other duties as may be conferred and imposed upon it in terms of this Act; and
- (b) may, subject to the provisions of this Act—
- 35 (i) determine the manner in which meetings of the council and any committee or sub-committee referred to in section 7 (1) shall be convened, the procedure to be followed at such meetings and the quorum for meetings of any such committee and sub-committee;
- (ii) determine the form of any register, certificate or document to be kept, provided or issued in terms of this Act and from time to time alter or
- 40 amend the form of any such register, certificate or document;
- (iii) determine a registration fee payable by any person seeking registration in terms of this Act, any annual fee payable by any person registered in terms of this Act as well as the due date for such payment;
- 45 (iv) determine a code of conduct or ethical rules the contravention of which on the part of any person registered in terms of this Act shall constitute disgraceful, improper or unbecoming conduct;
- (v) in co-operation with the Institute, take such steps or perform such acts as it may deem necessary to promote and improve the profession of town clerk, with particular reference to the professional training of
- 50 persons registered in terms of this Act;
- (vi) promote or oppose legislation concerning the office of town clerk and persons registered in terms of this Act;
- (vii) publish one or more professional journals relating to the objects of the council;
- 55 (viii) purchase or acquire by exchange, donation, gift or otherwise any movable or immovable property and dispose thereof;
- (ix) borrow funds against the security of any movable or immovable property of the council;
- 60 (x) invest the funds of the council in any deposit-receiving or financial institution or in stocks, securities, debentures, mortgages or equities;

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- (xi) die plek bepaal waar die hoofkantoor van die raad geleë moet wees;
- (xii) vir pensioenvoordele vir die persone in paragraaf (a) (ii) bedoel, voorsiening maak of daardie voordele aan hulle verskaf;
- (xiii) die ander stappe doen wat nodig of wenslik is vir die behoorlike uitoefening en verrigting van sy bevoegdhede en pligte ingevolge hierdie Wet. 5

Fondse van raad

9. (1) Die fondse van die raad bestaan uit—
- (a) gelde en boetes betaal ingevolge hierdie Wet;
 - (b) rente afkomstig uit enige belegging; en 10
 - (c) alle ander geld wat die raad uit enige ander bron toeval.
- (2) Die raad gebruik sy fondse ter bestryding van enige uitgawes deur hom aangegaan in die uitoefening van sy bevoegdhede en die verrigting van sy pligte ingevolge hierdie Wet.
- (3) Die raad moet 'n rekening by 'n bankinstelling open en moet in daardie 15 rekening alle geld wat die raad ingevolge hierdie Wet ontvang, stort.
- (4) Die raad kan sy lede, vervangende lede, 'n gekoöpteerde lid van 'n komitee of onderkomitee en die werknemers van die raad die uitgawes, synde reis- en verblyfkooste en persoonlike uitgawes, vergoed wat hulle aangaan in verband met die bywoning van 'n vergadering van die raad of 'n komitee of onderkomitee daarvan of 20 in verband met die verrigtinge van die raad.
- (5) Die raad kan 'n bywoningstoelae aan 'n lid of vervangende lid van die raad of gekoöpteerde lid van 'n komitee of onderkomitee daarvan betaal vir die bywoning van 'n vergadering van die raad of van so 'n komitee of onderkomitee.

Rekenpligtige beampte

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10. Die registrateur is die rekenpligtige beampte belas met die verantwoording van al die geld ontvang, en van al die betalings gedoen, deur die raad.

Boekjaar en begroting van inkomste en uitgawes

11. (1) Die boekjaar van die raad eindig op 30 Junie in elke jaar: Met dien verstande dat die eerste boekjaar van die raad op die datum van inwerkingtreding 30 van hierdie Wet begin en op 30 Junie van die daaropvolgende jaar eindig.
- (2) Gedurende elke sodanige boekjaar moet die registrateur aan die raad vir sy goedkeuring 'n begroting van die raad se inkomste en uitgawes gedurende die volgende boekjaar voorlê.
- (3) Die raad moet sy uitgawes ten opsigte van enige boekjaar beperk tot die 35 bedrae wat in sodanige begroting van uitgawes deur hom goedgekeur, aangetoon is.

Boekhouding en ouditering

12. (1) Die raad laat behoorlik boekhou van alle geld deur hom ontvang of bestee, van al sy bates en laste en van alle finansiële transaksies deur hom aangegaan.
- (2) Die raad moet so spoedig doenlik na die einde van elke boekjaar rekeningstate 40 en 'n balansstaat laat opmaak wat die geld deur hom ontvang en die uitgawes deur hom aangegaan gedurende, en sy bates en laste aan die einde van, daardie boekjaar aantoon.
- (3) Die rekeningstate en balansstaat in subartikel (2) bedoel, word jaarliks geouditeer deur iemand wat kragtens die Wet op Openbare Rekenmeesters en 45 Ouditeurs, 1951 (Wet No. 51 van 1951), as rekenmeester en ouditeur geregistreer is en 'n openbare praktyk as sodanig beoefen en deur die raad aangestel word.
- (4) Die raad stuur afskrifte van sodanige stukke, aldus geouditeer, aan elke persoon wat ingevolge hierdie Wet geregistreer is.

Verslae deur raad

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13. (1) Die raad lê binne ses maande na die afsluiting van 'n boekjaar 'n verslag oor sy bedrywighede gedurende daardie boekjaar aan die Minister voor.
- (2) 'n Verslag wat die Minister ingevolge subartikel (1) ontvang, moet deur die Minister in die Parlement ter Tafel gelê word binne 14 dae na ontvangs daarvan deur die Minister, indien die Parlement dan in gewone sessie is, of, indien die Parlement 55 nie dan in gewone sessie is nie, binne 14 dae na die aanvang van sy eersvolgende gewone sessie.

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- (xi) determine the place where the head office of the council shall be situated;
- (xii) make provision for pension benefits for the persons referred to in paragraph (a) (ii) or furnish them with such benefits;
- 5 (xiii) take such other action as may be necessary or desirable for the proper exercise and performance of its powers and duties in terms of this Act.

Funds of council

9. (1) The funds of the council shall consist of—
- (a) fees and fines paid in terms of this Act;
- 10 (b) interest derived from any investment; and
- (c) all other moneys which may accrue to the council from any other source.
- (2) The council shall use its funds to defray any expenses incurred by it in the exercise of its powers and the performance of its duties in terms of this Act.
- (3) The council shall open an account with a banking institution and shall deposit 15 in such account all moneys received by the council.
- (4) The council may reimburse its members, alternate members, a co-opted member of a committee or sub-committee and the employees of the council for any expenditure, being travel, subsistence and out-of-pocket expenses, incurred by them in connection with attendance at meetings of the council or any committee or 20 sub-committee thereof or in connection with the business of the council.
- (5) The council may pay an attendance allowance to any member or alternate member of the council for attendance at any meeting of a committee or sub-committee thereof.

Accounting officer

- 25 10. The registrar shall be the accounting officer charged with the accounting for all moneys received, and for all payments made, by the council.

Financial year and estimates of income and expenditure

11. (1) The financial year of the council shall terminate on 30 June in each year: Provided that the first financial year of the council shall commence on the date of 30 commencement of this Act and end on 30 June of the ensuing year.
- (2) During every such financial year the registrar shall submit to the council for its approval estimates of the income and expenditure of the council during the ensuing financial year.
- (3) The council shall restrict its expenditure for any financial year to the amounts 35 shown on such estimates of expenditure approved by it.

Bookkeeping and auditing

12. (1) The council shall cause proper records to be kept of all moneys received or expended by it, of all its assets and liabilities and of all financial transactions entered into by it.
- 40 (2) The council shall as soon as possible after the end of each financial year cause statements of account and a balance sheet to be prepared showing the moneys received and the expenditure incurred by it during, and its assets and liabilities at the end of, that financial year.
- (3) The statements of account and balance sheet referred to in subsection (2) shall 45 be audited annually by a person registered as an accountant and auditor under the Public Accountants' and Auditors' Act, 1951 (Act No. 51 of 1951), and engaged as such in public practice and appointed by the council.
- (4) Copies of such documents so audited shall be dispatched to every person who is registered in terms of this Act.

50 Reports by council

13. (1) The council shall within six months after the close of a financial year submit a report to the Minister on its activities during that financial year.
- (2) A report received by the Minister in terms of subsection (1) shall be laid upon the Table in Parliament by the Minister within 14 days after its receipt by the 55 Minister, if Parliament is then in ordinary session, or, if Parliament is not then in ordinary session, within 14 days after the commencement of its next ensuing ordinary session.

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Instelling en samestelling van Adviserende Onderwyskomitee vir Stads-klerke

14. (1) Daar word hierby 'n adviserende komitee met die naam die Adviserende Onderwyskomitee vir Stads-klerke ingestel wat bestaan uit—

- (a) 'n voorsitter deur die raad aangewys;
- (b) twee persone deur die Komitee van Universiteits-hoofde ingestel by artikel 5 6 van die Wet op Universiteite, 1955 (Wet No. 61 van 1955), aangewys om die universiteite in die Republiek te verteenwoordig wat onderrig in publieke administrasie en plaaslike bestuur verskaf en eksamens in verband daarmee afneem;
- (c) drie persone deur die Federasie aangewys; 10
- (d) drie persone deur die raad aangewys; en
- (e) twee persone deur die Opleidingsraad vir Plaaslike Owerheidsliggame ingestel by artikel 2 van die Wet op Plaaslike Owerheidsopleiding, 1985 (Wet No. 41 van 1985), aangewys.

(2) Vir elke lid van die adviserende onderwyskomitee word 'n plaasvervangende 15 lid op dieselfde wyse as bedoelde lid aangewys, en 'n plaasvervangende lid aldus aangewys, moet in die plek van die betrokke lid waarneem tydens sodanige lid se afwesigheid of onvermoë om as lid van dié komitee op te tree.

(3) Die bepalings van artikel 7 (2) is *mutatis mutandis* op die adviserende onderwyskomitee van toepassing. 20

Ampstermyn van lede van adviserende onderwyskomitee

15. (1) 'n Lid of plaasvervangende lid van die adviserende onderwyskomitee beklee sy amp vir 'n tydperk van vier jaar.

(2) Indien 'n vakature in die lidmaatskap van die adviserende onderwyskomitee ontstaan, word die vakature gevul deur die aanwysing, met inagneming van die 25 bepalings van artikel 14 (1) en (2), van iemand anders as 'n lid of plaasvervangende lid, na gelang van die geval, en elke lid of plaasvervangende lid wat aldus aangewys word, beklee sy amp vir die onverstreke gedeelte van die tydperk waarvoor die betrokke lid of plaasvervangende lid aangewys was.

(3) Iemand wie se ampstermyn as 'n lid of plaasvervangende lid van die 30 adviserende onderwyskomitee verstryk het, kan heraangewys word.

Vergaderings van adviserende onderwyskomitee

16. (1) Vergaderings van die adviserende onderwyskomitee word deur die voorsitter van dié komitee belê.

(2) Op die eerste vergadering van die adviserende onderwyskomitee en daarna 35 wanneer dit nodig word, kies die lede uit hul midde 'n ondervoorsitter, wat dié amp beklee solank hy 'n lid van dié komitee is of vir die korter tydperk wat dié komitee bepaal, en wat, in die afwesigheid van die voorsitter, al die werksaamhede van die voorsitter verrig.

(3) Indien die voorsitter en die ondervoorsitter van 'n vergadering van die 40 adviserende onderwyskomitee afwesig is of nie as voorsitter kan optree nie, moet die aanwesige lede een uit hul midde kies om op daardie vergadering voor te sit, en die persoon aldus gekies om voor te sit, kan gedurende daardie vergadering en totdat die voorsitter of ondervoorsitter sy ampspligte hervat, al die pligte van die voorsitter verrig. 45

Werksaamhede van adviserende onderwyskomitee

17. Die adviserende onderwyskomitee moet ondersoek instel na en die raad adviseer oor, of aanbevelings by die raad doen met betrekking tot, die opvoedkundige en ander kwalifikasies en vereistes vir die registrasie van persone ingevolge hierdie Wet. 50

Registers

18. (1) Die registrateur moet afsonderlike registers hou ten opsigte van—

- (a) professionele stads-klerke;
- (b) geregistreerde stads-klerke; en
- (c) voornemende stads-klerke. 55

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Establishment and constitution of Education Advisory Committee for Town Clerks

14. (1) There is hereby established an advisory committee to be known as the Education Advisory Committee for Town Clerks, consisting of—
- (a) a chairman designated by the council;
 - 5 (b) two persons designated by the Committee of University Principals established by section 6 of the Universities Act, 1955 (Act No. 61 of 1955), to represent the universities in the Republic providing instruction in public administration and local government and conducting examinations in connection therewith;
 - 10 (c) three persons designated by the Federation;
 - (d) three persons designated by the council; and
 - (e) two persons designated by the Training Board for Local Government Bodies established by section 2 of the Local Government Training Act, 1985 (Act No. 41 of 1985).
- 15 (2) For each member of the education advisory committee an alternate member shall be designated in the same manner as such member, and any alternate member so designated shall act in the place of the member concerned during such member's absence or inability to act as a member of that committee.
- (3) The provisions of section 7 (2) shall *mutatis mutandis* apply in respect of the
- 20 education advisory committee.

Tenure of office of members of education advisory committee

15. (1) A member or alternate member of the education advisory committee shall hold office for a period of four years.
- (2) In the event of a vacancy occurring in the membership of the education
- 25 advisory committee, the vacancy shall be filled by the designation, due regard being had to the provisions of section 14 (1) and (2), of another person as a member or an alternate member, as the case may be, and every member or alternate member so designated shall hold office for the unexpired portion of the period for which the member or alternate member concerned was designated.
- 30 (3) Any person whose term of office as a member or alternate member of the education advisory committee has expired shall be eligible for redesignation.

Meetings of education advisory committee

16. (1) Meetings of the education advisory committee shall be convened by the chairman of that committee.
- 35 (2) At the first meeting of the education advisory committee and thereafter as the occasion arises the members shall out of their number elect a vice-chairman, who shall hold office for as long as he remains a member of that committee or for such shorter period as the committee may determine, and who, in the absence of the chairman, shall perform all the functions of the chairman.
- 40 (3) If the chairman and the vice-chairman are absent from any meeting of the education advisory committee or not able to preside, the members present shall elect one of their number to preside at that meeting, and the person so elected to preside may during that meeting and until the chairman or vice-chairman resumes duty, perform all the duties of the chairman.

45 Functions of education advisory committee

17. The education advisory committee shall inquire into and advise the council on, or make recommendations to the council in regard to, the educational and other qualifications and requirements for the registration of persons in terms of this Act.

Registers

- 50 18. (1) The registrar shall keep separate registers in respect of—
- (a) professional town clerks;
 - (b) registered town clerks; and
 - (c) prospective town clerks.

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(2) Elke register bevat die voorgeskrewe inligting.

(3) Die raad doen op die grondslag waarvolgens plaaslike owerhede ingevolge artikel 8 van die Wet op die Besoldiging van Stadsklerke, 1984 (Wet No. 115 van 1984), volgens grade ingedeel is, 'n bepaling in artikel 19 (c) bedoel, en kan, behoudens genoemde grondslag, van tyd tot tyd sodanige bepaling wysig, vervang of intrek. 5

Kwalifikasies vir registrasie

19. 'n Aansoeker om registrasie ingevolge hierdie Wet moet—

- (a) minstens 21 jaar oud wees;
- (b) die registrasiekomitee oortuig dat hy 'n geskikte en gepaste persoon is om 10 die amp van stadsklerk te beklee;
- (c) oor die opvoedkundige kwalifikasies en praktiese ondervinding beskik wat die raad bepaal as vereistes vir registrasie as—
 - (i) 'n professionele stadsklerk;
 - (ii) 'n geregistreerde stadsklerk; of 15
 - (iii) 'n voornemende stadsklerk,
 na gelang van die geval, ten opsigte van die onderskeie grade plaaslike owerhede.

Ongeregistreerde persoon nie as stadsklerk aangestel te word nie

20. (1) Behoudens die bepalinge van subartikels (2) en (3), stel 'n plaaslike 20 owerheid nie 'n persoon in die amp van stadsklerk in stryd met 'n bepaling deur die raad kragtens artikel 18 (3) gedoen, aan nie.

(2) Indien 'n plaaslike owerheid nie 'n paslik geregistreerde kandidaat kan bekom vir aanstelling in die vakante amp van stadsklerk nie, kan die plaaslike owerheid 'n persoon wat nie paslik geregistreer is nie, magtig om vir 'n tydperk van hoogstens 12 25 maande as stadsklerk waar te neem.

(3) Die raad kan—

- (a) op aansoek deur 'n plaaslike owerheid, sodanige plaaslike owerheid skriftelik; of
- (b) plaaslike owerhede in die algemeen op die grondslag waarvolgens hulle 30 ingevolge die bepalinge van artikel 8 van die Wet op die Besoldiging van Stadsklerke, 1984 (Wet No. 115 van 1984), in grade ingedeel is, van die bepalinge van subartikel (1) vrystel vir die tydperk en op die voorwaardes wat hy bepaal.

(4) Die raad weier nie 'n aansoek ingevolge subartikel (3) (a) nie, tensy die 35 Federasie daartoe ingestem het.

Aansoeke om registrasie

21. (1) Binne 12 maande na die inwerkingtreding van hierdie Wet, doen elkeen wat die amp van stadsklerk beklee by die raad aansoek om registrasie op die wyse 40 wat die raad bepaal.

(2) Iemand wat by die inwerkingtreding van hierdie Wet by 'n plaaslike owerheid as 'n stadsklerk in diens is, word op aansoek ingevolge subartikel (1) geregistreer—

- (a) indien hy oor die opvoedkundige kwalifikasies en die praktiese ondervinding beskik wat deur die raad bepaal is as vereistes daarvoor, as 'n professionele stadsklerk; 45
- (b) in alle ander gevalle en ondanks die bepalinge van artikel 19 (c), as 'n geregistreerde stadsklerk.

(3) Iemand wat nie 'n stadsklerk is nie en aan die vereistes van artikel 19 (c) (iii) voldoen, kan by die raad aansoek doen, op 'n wyse deur hom bepaal, om registrasie as 'n voornemende stadsklerk. 50

(4) Die naam van iemand wat as 'n professionele stadsklerk of 'n geregistreerde stadsklerk geregistreer is, word nie uit hoofde van sy aanstelling in 'n ander pos as dié van stadsklerk op die diensstaat van 'n plaaslike owerheid, behalwe omrede die oplegging van 'n straf kragtens artikel 25 (6) (c) of (d), geskrap uit die register waarin hy aldus geregistreer is nie. 55

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(2) Each register shall contain the prescribed information.

(3) The council shall, on the basis according to which local authorities have been classified according to grades in terms of section 8 of the Remuneration of Town Clerks Act, 1984 (Act No. 115 of 1984), make a determination referred to in section 19 (c) and may, subject to the said basis, from time to time amend, substitute or withdraw any such determination.

Qualifications for registration

19. An applicant for registration in terms of this Act shall—

- (a) be at least 21 years of age;
- 10 (b) satisfy the registration committee that he is a fit and proper person to hold the office of town clerk;
- (c) possess the educational qualifications and the practical experience which the council determines as requirements for registration as—
 - (i) a professional town clerk;
 - 15 (ii) a registered town clerk; or
 - (iii) a prospective town clerk,as the case may be, in respect of the various grades of local authorities.

Unregistered person not to be appointed as town clerk

20. (1) Subject to the provisions of subsections (2) and (3), a local authority shall not appoint a person to the office of town clerk contrary to a determination made by the council in terms of section 18 (3).

(2) If a local authority is unable to obtain a suitably registered candidate for appointment to the vacant office of town clerk, it may authorize a person not suitably registered to act as town clerk for a period not exceeding 12 months.

25 (3) The council may—

- (a) upon application by a local authority, exempt that local authority in writing; or
- (b) exempt local authorities in general on the basis according to which they have been classified according to grades in terms of section 8 of the
- 30 Remuneration of Town Clerks Act, 1984 (Act No. 115 of 1984), from the provisions of subsection (1), for such period and on such conditions as it may determine.

(4) The council shall not refuse an application in terms of subsection (3) (a), unless the Federation has agreed thereto.

35 Applications for registration

21. (1) Within 12 months after the commencement of this Act, every person holding the office of town clerk shall apply to the council for registration in the manner determined by the council.

(2) Any person who, immediately prior to the commencement of this Act, is employed by a local authority as a town clerk shall, upon application in terms of subsection (1), be registered—

- (a) if he possesses the educational qualifications and the practical experience determined by the council as requirements therefor, as a professional town clerk;
- 45 (b) in all other cases and notwithstanding the provisions of section 19 (c), as a registered town clerk.

(3) Any person who is not a town clerk and complies with the requirements of section 19 (c) (iii), may apply to the council, in the manner determined by it, for registration as a prospective town clerk.

50 (4) The name of any person registered as a professional town clerk or a registered town clerk shall not by virtue of his appointment in a post other than that of town clerk on the establishment of a local authority, except by reason of the imposition of a penalty under section 25 (6) (c) or (d), be removed from the register in which he is so registered.

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(5) Iemand wie se naam ingevolge artikel 25 (6) (d) van 'n register geskrap is, doen nie voor die verloop van minstens 12 maande na die datum waarop sy registrasiesertifikaat aan die registrateur terugbesorg is, by die raad aansoek, op 'n wyse deur hom bepaal, om herregistrasie nie.

Oorweging van aansoeke

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22. (1) Die registrasiekomitee oorweeg elke aansoek om registrasie of herregistrasie in artikel 21 bedoel en kan—

- (a) behoudens die bepalings van artikels 19 en 21, 'n aansoek toestaan of verwerp: Met dien verstande dat indien die aansoek een om herregistrasie is, die registrasiekomitee na goeëdunke sodanige aansoek kan verwerp of 10 dit kan toestaan onderworpe aan die voorwaardes wat hy oplê; of
- (b) 'n besluit uitstel in afwagting van verdere inligting of die uitslag van 'n ondersoek.

(2) Indien die registrasiekomitee—

- (a) 'n aansoek om registrasie of herregistrasie toestaan, teken die registrateur 15 sodanige besluit in die toepaslike register aan en reik hy aan die aansoeker 'n registrasiesertifikaat uit in die vorm deur die raad bepaal;
- (b) 'n aansoek verwerp, verwittig die registrateur die aansoeker skriftelik van die besluit wat geneem is en die redes daarvoor,

en indien die aansoeker as 'n stadsclerk werksaam is, stel die registrateur ook die 20 betrokke plaaslike owerheid van die toestaan of, indien daar na verstryking van die tydperk waarin 'n persoon ingevolge artikel 27 appél kan aanteken, geen appél aangeteken is nie, van die verwerping van sy aansoek in kennis.

Aanstelling van stadsclerke

23. (1) Wanneer die amp van stadsclerk vakant raak, kan die betrokke plaaslike 25 owerheid, ondanks die bepalings van artikel 20, iemand wat nie paslik vir aanstelling deur sodanige plaaslike owerheid geregistreer is nie, in die amp van stadsclerk aanstel, indien daardie persoon—

- (a) aan die vereistes van artikel 19 ten opsigte van sodanige registrasie 30 voldoen; en
- (b) dokumentêre bewys van die registrateur oorlê dat—
 - (i) 'n aansoek om sodanige registrasie ontvang is; en
 - (ii) die registrasiekomitee sodanige aansoek sal toestaan as die aansoeker aldus deur die plaaslike owerheid aangestel word.

(2) Indien 'n plaaslike owerheid iemand in die amp van stadsclerk aanstel, stel hy 35 die registrateur onverwyld skriftelik van die aanstelling in kennis, en die registrateur maak die nodige inskrywing in die toepaslike register.

Onbehoorlike gedrag

24. Iemand wat kragtens hierdie Wet geregistreer is, is skuldig aan onbehoorlike 40 gedrag indien hy—

- (a) enige etiese reël wat die raad kragtens artikel 8 (b) (iv) bepaal het, oortree of versuim om daaraan te voldoen;
- (b) hom met betrekking tot die uitvoering van sy pligte op 'n skandelijke, onbehoorlike of onbetaamlike manier gedra;
- (c) in stryd met die belange van die plaaslike owerheid by wie hy werksaam 45 is—
 - (i) inligting wat hy ingewin het of aan hom deur sy indiensneming deur daardie plaaslike owerheid oorgedra is, bekend maak anders as by die vervulling van sy ampspligte; of
 - (ii) daardie inligting vir enige ander doel as vir die vervulling van sy 50 ampspligte gebruik, hetsy hy dié inligting bekend maak al dan nie;
- (d) enige kommissie, geld of ander vergoeding met betrekking tot die uitvoering of nie-uitvoering van sy pligte ontvang of eis, buiten die emolumente aan hom betaalbaar met betrekking tot sy dienste vir en namens die 55 plaaslike owerheid by wie hy werksaam is;
- (e) hom enige eiendom van die plaaslike owerheid by wie hy werksaam is, wederregtelik toe-eien of onbehoorlike gebruik daarvan maak;

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(5) Any person whose name has been removed from a register in terms of section 25 (6) (d), shall not apply to the council, in the manner determined by it, for reregistration before the lapse of at least 12 months after the date on which his registration certificate was returned to the registrar.

5 Consideration of applications

22. (1) The registration committee shall consider every application for registration or reregistration referred to in section 21 and may—

10 (a) subject to the provisions of sections 19 and 21, grant or reject any application: Provided that if the application is for reregistration, the registration committee may, in its discretion, reject such application or grant it subject to such conditions as it may impose; or

(b) postpone a decision in anticipation of further information or the result of an investigation.

(2) If the registration committee—

15 (a) grants an application for registration or reregistration, the registrar shall record such decision in the appropriate register and issue to the applicant a registration certificate in the form determined by the council;

(b) rejects an application, the registrar shall in writing inform the applicant of the decision taken and the reasons therefor,

20 and if the applicant is employed as a town clerk the registrar shall also inform the local authority concerned of the granting or, if after the period within which a person may appeal in terms of section 27 has expired, no appeal has been lodged, the rejection of his application.

Appointment of town clerks

25 23. (1) Whenever the office of town clerk becomes vacant, the local authority concerned may, notwithstanding the provisions of section 20, appoint to the office of town clerk any person not suitably registered for appointment by that local authority who—

30 (a) complies with the requirements of section 19 in respect of such registration; and

(b) produces documentary proof from the registrar that—

(i) an application for such registration has been received; and

(ii) the registration committee will grant such application if the applicant is so appointed by the local authority.

35 (2) If a local authority appoints a person to the office of town clerk it shall forthwith in writing notify the registrar of the appointment and the registrar shall make the necessary entry in the appropriate register.

Improper conduct

40 24. Any person registered in terms of this Act shall be guilty of improper conduct if he—

(a) contravenes or fails to comply with any ethical rule determined by the council under section 8 (b) (iv);

(b) conducts himself in a disgraceful, improper or unbecoming manner in connection with the performance of his duties;

45 (c) contrary to the interests of the local authority by which he is employed—
(i) discloses, other than in discharging his official duties, information gained by or conveyed to him through his employment by such local authority; or

50 (ii) uses that information for any purpose other than for discharging his official duties, whether or not he discloses that information;

(d) accepts or demands in respect of the discharge of or the failure to discharge his duties any commission, fee or other reward, not being the emoluments payable to him in respect of his services for and on behalf of the local authority by which he is employed;

55 (e) misappropriates or makes improper use of any property of the local authority by which he is employed;

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- (f) wetens 'n valse verklaring maak met die doel om enige voorreg of voordeel met betrekking tot sy amptelike status of pligte te verkry, of om skade of benadeling aan die plaaslike owerheid by wie hy werksaam is of aan 'n departement of werknemer daarvan, te veroorsaak.

Dissiplinêre verrigtinge

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25. (1) Die tugkomitee kan op die voorgeskrewe wyse, met inbegrip van die aanstelling deur hom van een of meer persone om hom van advies te dien, ondersoek instel na gevalle van beweerde onbehoorlike gedrag van persone wat ingevolge hierdie Wet geregistreer is en kan enige straf in subartikel (6) van hierdie artikel bepaal ten opsigte daarvan oplê.

10

(2) Indien die beweerde onbehoorlike gedrag die onderwerp van straf- of sivielregtelike verrigtinge in 'n geregshof uitmaak of na die mening van die tugkomitee waarskynlik sal uitmaak, kan die tugkomitee die ondersoek uitstel totdat sodanige verrigtinge afgehandel is.

(3) Iemand teen wie 'n ondersoek ingevolge hierdie artikel ingestel word, is 15 geregtig om òf persoonlik òf deur sy regsvertegenwoordiger op die aanklag te antwoord en sy verdediging aan te voer.

(4) Die bepalings van artikels 3, 5 en 6 van die Kommissiewet, 1947 (Wet No. 8 van 1947), is *mutatis mutandis* van toepassing op die tugkomitee, en by die toepassing van—

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(a) artikel 3 (2) van genoemde Wet word die verwysing daarin na die sekretaris van die kommissie geag 'n verwysing na die registrateur te wees; en

(b) artikel 3 (4) van genoemde Wet word die verwysing daarin na staatsfondse geag 'n verwysing na die fondse van die raad te wees.

(5) By die beëindiging van die ondersoek kan die tugkomitee—

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(a) die aanklag teen die persoon teen wie dié ondersoek ingestel is, afwys; of

(b) hom skuldig bevind aan onbehoorlike gedrag.

(6) Indien genoemde tugkomitee genoemde persoon skuldig bevind aan onbehoorlike gedrag, kan hy—

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(a) hom waarsku of berispe;

(b) 'n boete oplê wat nie die voorgeskrewe bedrag oorskry nie, wat binne 30 dae van die oplegging daarvan aan die raad betaal moet word, tensy 'n appèl ingevolge artikel 27 aangeteken word;

(c) sy registrasie vir 'n tydperk van hoogstens 12 maande opskort; of

(d) mits die besluit om dit te doen, eenparig is, sy naam uit die register waarin 35 hy geregistreer is, skrap.

(7) Die tugkomitee boekstaaf sy bevinding en die registrateur stel die persoon wat aldus skuldig bevind is, en indien daar na verstryking van die tydperk waarin appèl ingevolge artikel 27 aangeteken kan word, geen appèl aangeteken is nie, ook sy werkgewer en die klaer (as daar is), skriftelik van die skuldigbevinding in kennis.

40

(8) Indien die tugkomitee 'n persoon se naam kragtens subartikel (6) (d) uit 'n register skrap—

(a) en sodanige persoon 'n stadsclerk is, moet die plaaslike owerheid, ondanks die bepalings van enige ander wet—

(i) binne sewe dae na ontvangs van die kennisgewing bedoel in subartikel 45 (7); of

(ii) in geval van 'n appèl ingevolge artikel 27 teen sodanige skraping wat nie gehandhaaf is nie, binne sewe dae na ontvangs van die kennisgewing bedoel in artikel 27 (5),

daardie persoon uit die amp van stadsclerk ontslaan;

50

(b) moet hy binne die tydperk in paragraaf (a) (i) of (ii) bedoel, na gelang van die geval, die registrasiesertifikaat wat ingevolge artikel 22 (2) aan hom uitgereik is, aan die registrateur terugbesorg.

(9) Iemand wat versuim om aan die bepalings van subartikel (8) (b) te voldoen, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R500 of met gevangenisstraf vir 'n tydperk van hoogstens drie maande of met sodanige boete sowel as sodanige gevangenisstraf.

55

(10) Die bepalings van subartikel (8) word nie so uitgelê dat die betrokke persoon se diens by die plaaslike owerheid in enige ander hoedanigheid as stadsclerk beëindig word nie.

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- (f) knowingly makes a false statement with a view to obtaining any privilege or advantage in relation to his official position or duties, or causing prejudice or injury to the local authority by which he is employed or to a department or employee thereof.

5 Disciplinary proceedings

25. (1) The disciplinary committee may in the prescribed manner, including the appointment of one or more persons by it to advise it, inquire into cases of alleged improper conduct of persons registered in terms of this Act and may impose in respect thereof any penalty provided for in subsection (6) of this section.
- 10 (2) If the alleged improper conduct forms or is in the opinion of the disciplinary committee likely to form the subject of criminal or civil proceedings in a court of law, the disciplinary committee may postpone the inquiry until such proceedings have been concluded.
- (3) Any person against whom an inquiry is instituted in terms of this section, shall
15 be entitled either in person or through his legal representative to answer the charge and to be heard in his defence.
- (4) The provisions of sections 3, 5 and 6 of the Commissions Act, 1947 (Act No. 8 of 1947), shall *mutatis mutandis* apply to the disciplinary committee, and for the purposes of—
- 20 (a) section 3 (2) of the said Act, the reference therein to the secretary of the commission shall be deemed to be a reference to the registrar; and
(b) section 3 (4) of the said Act, the reference therein to public funds shall be deemed to be a reference to the funds of the council.
- (5) At the termination of the inquiry, the disciplinary committee may—
- 25 (a) dismiss the charge against the person against whom the inquiry has been instituted; or
(b) find him guilty of improper conduct.
- (6) If the disciplinary committee finds the said person guilty of improper conduct, it may—
- 30 (a) caution or reprimand him;
(b) impose a fine not exceeding the prescribed amount, which shall be paid to the council within 30 days as from its imposition, unless an appeal is lodged in terms of section 27;
(c) suspend his registration for a period not exceeding 12 months; or
35 (d) remove his name from the register in which he is registered provided the decision to do so is unanimous.
- (7) The disciplinary committee shall record its finding, and the registrar shall in writing notify the person so convicted, and if no appeal has been lodged after the period in which an appeal may be lodged in terms of section 27 has lapsed, also his
40 employer and the complainant (if any), of the conviction.
- (8) If the disciplinary committee removes under subsection (6) (d) any person's name from a register—
- (a) and such person is a town clerk, the local authority concerned shall, notwithstanding the provisions of any other law—
- 45 (i) within seven days of receiving the notification referred to in subsection (7); or
(ii) in the event of an unsuccessful appeal in terms of section 27 against such removal, within seven days of receiving the notification referred to in section 27 (5),
- 50 remove such person from the office of town clerk;
(b) he shall within the time referred to in paragraph (a) (i) or (ii), as the case may be, return to the registrar the registration certificate issued to him in terms of section 22 (2).
- (9) Any person who fails to comply with the provisions of subsection (8) (b), shall
55 be guilty of an offence and on conviction liable to a fine not exceeding R500 or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.
- (10) The provisions of subsection (8) shall not be so construed as to terminate the service of the person concerned with the local authority in any capacity other than
60 that of town clerk.

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Persoon wat in sy geestesvermoë gekrenk geraak het

26. (1) Wanneer dit uit beëdigde inligting deur 'n geneesheer soos omskryf in die Wet op Geneeshere, Tandartse en Aanvullende Gesondheidsberoep, 1974 (Wet No. 56 van 1974), vir die raad blyk dat enige persoon wat kragtens hierdie Wet geregistreer is, in sy geestesvermoë in so 'n mate gekrenk geraak het dat dit in stryd met die openbare belang sal wees indien hy sou voortgaan om sy ampspligte uit te voer, kan die raad na goeddunke en op die voorgeskrewe wyse 'n ondersoek na sodanige aangeleentheid instel, en met betrekking tot so 'n ondersoek is die bepaling van artikel 25 (4) *mutatis mutandis* van toepassing. 5

(2) Indien die raad bevind dat sodanige persoon in die mate in subartikel (1) bedoel, in sy geestesvermoë gekrenk geraak het, kan die raad beveel dat die naam van daardie persoon geskrap word uit die register waarin hy geregistreer is, en daarna is die bepaling van artikel 25 (8) (a) *mutatis mutandis* van toepassing. 10

Appelle

27. (1) Iemand—

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(a) wie se aansoek om registrasie of herregistrasie deur die registrasiekomitee verwerp word; of

(b) wat deur die tugkomitee skuldig bevind word aan onbehoorlike gedrag, kan binne 30 dae nadat hy daarvan in kennis gestel is, of sodanige langer tydperk as wat die raad op aansoek deur die appellant binne genoemde 30 dae, mag toestaan, op die voorgeskrewe wyse na die raad teen bedoelde verwerping of bevinding of 'n boete opgelê as gevolg van daardie bevinding appelleer: Met dien verstande dat die voorsitter in artikel 7 (1) (a) (ii) (aa) bedoel, nie sitting op die raad het wanneer 'n appèl kragtens paragraaf (b) van hierdie subartikel oorweeg word nie. 20

(2) Behoudens die bepaling van subartikel (3), oorweeg die raad die appèl 25 waarna in subartikel (1) verwys word en kan hy die verwerping, bevinding of straf in gemelde subartikel bedoel, bevestig, verander of tersyde stel of die ander beslissing gee of die ander straf oplê wat die registrasiekomitee of tugkomitee, na gelang van die geval, na sy mening moes gegee of opgelê het: Met dien verstande dat die beslissing van die registrasiekomitee of tugkomitee nie tersyde gestel word nie bloot 30 vanweë 'n onreëlmatigheid wat die appellant nie by die beantwoording van die aanklag of by sy verdediging in verleentheid gebring of benadeel het nie.

(3) Indien, op enige stadium voor die beslissing van 'n appèl, aanvullende getuienis beskikbaar word wat, na die mening van die raad, tersaaklik is by die verwerping, bevinding of straf waarteen geappelleer is, kan die raad die aangeleentheid na die registrasiekomitee of die tugkomitee, na gelang van die geval, vir heroorweging met die oog op sodanige aanvullende getuienis terugverwys. 35

(4) Die registrateur stel so gou moontlik die appellant van enige stappe deur die raad kragtens subartikel (2) of (3) gedoen, in kennis.

(5) Die registrateur stel onverwyld die klaer, as daar is, en die appellant se 40 werkgewer skriftelik in kennis omtrent besonderhede van die stappe wat kragtens subartikel (2) of (3) deur die raad gedoen is.

(6) Indien genoemde appellant hom veronreg ag deur 'n beslissing gegee of 'n straf opgelê, by appèl, deur die raad kragtens subartikel (2), kan hy binne 'n tydperk van 30 dae vanaf die datum waarop die raad se beslissing of straf aan hom bekend 45 gemaak is, teen daardie beslissing of straf na 'n bevoegde hof appelleer deur by die griffier van daardie hof 'n kennisgewing van appèl in te dien waarin sy appèlgronde volledig uiteengesit word.

(7) Iemand wat ingevolge subartikel (6) appelleer, moet, wanneer hy bedoelde kennisgewing van appèl indien, by die betrokke griffier 'n bedrag van R200 stort as 50 sekuriteit vir die koste van die appèl en moet op dieselfde dag aan die registrateur 'n afskrif van die kennisgewing van appèl aflewer of stuur.

(8) Die registrateur stuur binne 'n tydperk van 30 dae vanaf die datum waarop hy die kennisgewing van appèl in subartikel (6) bedoel, ontvang het, aan genoemde griffier— 55

(a) ten opsigte van die betrokke ondersoek deur die tugkomitee ingevolge artikel 25 (1) ingestel—

(i) drie afskrifte van 'n oorkonde van die tersaaklike verrigtinge tydens genoemde ondersoek deur die tugkomitee gehou;

(ii) die dokumentêre getuienis wat by genoemde ondersoek toegelaat is; 60

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Person who has become mentally ill

26. (1) Whenever it appears to the council from information on oath furnished by a medical practitioner as defined in the Medical, Dental and Supplementary Health Services Act, 1974 (Act No. 56 of 1974), that any person registered in terms of this Act has become mentally ill to such an extent that it would be contrary to the public interest for him to continue to perform his official duties, the council may, in its discretion and in the manner prescribed, hold an inquiry into such matter, in respect of which inquiry the provisions of section 25 (4) shall *mutatis mutandis* apply.

(2) If the council finds that such person has become mentally ill to the extent contemplated in subsection (1), the council may order the removal of that person's name from the register in which he is registered, and thereupon the provisions of section 25 (8) (a) shall *mutatis mutandis* apply.

Appeals

27. (1) Any person—

15 (a) whose application for registration or reregistration is rejected by the registration committee; or

(b) who is found guilty by the disciplinary committee of improper conduct, may, within 30 days after being notified thereof, or such longer period as the council, on application by the appellant within the said 30 days, may allow, appeal to the council in the prescribed manner against any such rejection or finding or against a penalty imposed as a result of that finding: Provided that the chairman referred to in section 7 (1) (a) (ii) (aa) shall not have a seat in the council when an appeal under paragraph (b) of this subsection is being considered.

(2) Subject to the provisions of subsection (3), the council shall consider the appeal referred to in subsection (1) and may confirm, vary or set aside the rejection, finding or penalty referred to in the said subsection or give such other decision or impose such other penalty as the registration committee or disciplinary committee, as the case may be, should in its opinion have given or imposed: Provided that the decision of the registration committee or disciplinary committee shall not be set aside by reason only of an irregularity which did not embarrass or prejudice the appellant in answering the charge or in the conduct of his defence.

(3) Where, at any stage prior to the decision of an appeal, additional evidence which, in the opinion of the council, is material to the rejection, finding or penalty appealed against, becomes available, the council may refer the matter back to the registration committee or the disciplinary committee, as the case may be, for reconsideration in the light of such additional evidence.

(4) The registrar shall, as soon as possible, notify the appellant of any action taken by the council in terms of subsection (2) or (3).

(5) The registrar shall forthwith in writing furnish the complainant, if any, and the appellant's employer with details of the action taken by the council in terms of subsection (2) or (3).

(6) If the said appellant considers himself aggrieved by a decision given or a penalty imposed, on appeal, under subsection (2), he may within a period of 30 days from the date upon which he has been informed of the council's decision or penalty, appeal to a competent court against that decision or penalty by lodging with the registrar of that court a notice of appeal setting out in full his grounds of appeal.

(7) Any person who appeals in terms of subsection (6) shall, when lodging such notice of appeal, deposit with the registrar concerned an amount of R200 as security for the costs of the appeal and shall on the same day deliver or send to the registrar a copy of the notice of appeal.

(8) The registrar shall within a period of 30 days from the date upon which he has received the notice of appeal referred to in subsection (6), send to the said court registrar—

(a) in respect of the inquiry concerned instituted by the disciplinary committee in terms of section 25 (1)—

(i) three copies of a record of the relevant proceedings at the said inquiry kept by the disciplinary committee;

(ii) the documentary evidence admitted at the said inquiry;

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- (iii) 'n uiteensetting van die beslissing van die tugkomitee en die redes vir daardie beslissing;
- (iv) enige opmerkings wat die tugkomitee wil maak;
- (b) 'n uiteensetting van die beslissing van die raad en die redes vir daardie beslissing. 5
- (9) 'n Appèl ingevolge subartikel (7) word voortgesit asof dit 'n appèl is teen 'n vonnis van 'n landdroshof in 'n siviele saak, en alle reëls wat op die verhoor van so 'n appèl van toepassing is, is *mutatis mutandis* op 'n appèl kragtens hierdie artikel van toepassing.
- (10) Die hof wat 'n appèl kragtens hierdie artikel verhoor, moet— 10
 - (a) die beslissing waarteen geappelleer word, bekragtig; of
 - (b) die beslissing, en die straf wat ten opsigte daarvan opgelê is, tersyde stel; of
 - (c) die beslissing bekragtig, maar die straf tersyde stel en in die plek daarvan die straf oplê wat deur die tugkomitee opgelê moes word.
- (11) Die griffier stel onverwyld die appellant se werkgever skriftelik in kennis 15 omtrent besonderhede van die stappe wat ingevolge subartikel (10) deur die hof gedoen is.
- (12) 'n Boete betaalbaar ingevolge 'n besluit by appèl, moet binne 30 dae, of sodanige ander tydperk deur die raad bepaal, vanaf die datum waarop die beslissing gegee is, deur die appellant aan die raad betaal word. 20

Werkzaamhede van stadsclerke

28. Ondanks die bepalings van enige ander wet, is die stadsclerk die hoof-uitvoerende, administratiewe en rekenpligtige beampte van die plaaslike owerheid by wie hy werksaam is.

Voorwaardes waarop raad sekere bevoegdhede moet uitoefen

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29. (1) Die raad kondig enige bepaling wat in artikels 8 (a) (iii), 8 (b) (iv) en 18 (3) en 'n vrystelling wat in artikel 20 (3) (b) bedoel word, na oorweging van enige beswaar of kommentaar ingevolge subartikel (2) van hierdie artikel daaromtrent ingedien, by kennisgewing in die *Staatskoerant* af.

(2) 'n Bepaling of vrystelling in subartikel (1) bedoel, word nie soos in daardie 30 subartikel bepaal, afgekondig nie voordat die voorgestelde bepaling of vrystelling in die *Staatskoerant* afgekondig is tesame met 'n kennisgewing waarby belanghebbendes versoek word om binne die daarin vermelde tydperk, maar minstens 30 dae na die datum van bedoelde afkondiging, enige besware of kommentaar wat hulle daaromtrent mag hê skriftelik by die raad in te dien, en daardie tydperk verstryk het. 35

Regulasies

30. Die Minister kan, na oorlegpleging met die raad, regulasies uitvaardig aangaande die aangeleenthede wat ingevolge hierdie Wet voorgeskryf moet of kan word en kan sodanige ander regulasies uitvaardig as wat vir die bereiking van die oogmerke van hierdie Wet en die doeltreffende funksionering van die raad nodig is. 40

Herroeping van wette

31. Artikels 62A, 63 (1) tot (19) en 63A (2) van die Ordonnansie op Plaaslike Bestuur (Administrasie en Verkiezings), 1960 (Ordonnansie No. 40 van 1960), van Transvaal word hierby herroep.

Kort titel

45

32. Hierdie Wet heet die Wet op die Beroep van Stadsclerke, 1988.

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- (iii) a statement of the decision of the disciplinary committee and the reasons for such decision;
 - (iv) any observations which the disciplinary committee may wish to make;
 - (b) a statement of the decision of the council and the reasons for such decision.
- 5 (9) An appeal in terms of subsection (7) shall be prosecuted as if it were an appeal from a judgement of a magistrate's court in a civil matter, and all rules applicable to such hearing of such appeal shall *mutatis mutandis* apply to an appeal under this section.
- (10) The court hearing an appeal under this section shall—
- 10 (a) confirm the decision appealed against; or
- (b) set aside the decision, and the punishment imposed in respect thereof; or
- (c) confirm the decision, but set the punishment aside, and impose in its place such punishment as should have been imposed by the disciplinary committee.
- 15 (11) The court registrar shall forthwith in writing furnish the appellant's employer with details of the action taken by the court in terms of subsection (10).
- (12) Any fine payable in terms of a decision on appeal shall be paid to the council by the appellant within 30 days, or such other period as may be determined by the council, as from the date on which the decision is given.

20 Functions of town clerks

28. Notwithstanding the provisions of any other law, the town clerk shall be the chief executive, administrative and accounting officer of the local authority employing him.

Conditions on which council shall exercise certain powers

- 25 29. (1) The council shall publish any determination referred to in sections 8 (a) (iii), 8 (b) (iv) and 18 (3) or an exemption referred to in section 20 (3) (b), after considering any objection or comment lodged in regard thereto in terms of subsection (2) of this section, by notice in the *Gazette*.
- (2) Any determination or exemption referred to in subsection (1) shall not be
- 30 published as provided in that subsection, before the proposed determination or exemption has been published in the *Gazette* together with a notice calling upon interested persons to lodge any objections or comment they may have in regard thereto in writing with the council within the period mentioned therein, but not less than 30 days after the date of such publication, and that period has expired.

35 Regulations

30. The Minister may, after consultation with the council, make regulations as to the matters which shall or may in terms of this Act be prescribed, and may make such other regulations as may be necessary for the achievement of the objects of this Act and the effective functioning of the council.

40 Repeal of laws

31. Sections 62A, 63 (1) to (19) and 63A (2) of the Local Government (Administration and Elections) Ordinance, 1960 (Ordinance No. 40 of 1960), of the Transvaal are hereby repealed.

Short title

- 45 32. This Act shall be called the Profession of Town Clerks Act, 1988.

