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STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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GOVERNMENT GAZETTE

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No. 11390

CAPE TOWN, 6 JULY 1988

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:—

■. 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.

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.

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—

- 35 (a) is not a South African citizen;
- (b) is an unrehabilitated insolvent;
- (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;
- 40 (d) has at any time been removed from an office of trust on account of improper conduct; or
- (e) is not registered in terms of this Act.

(2) A member or an alternate member of the council shall vacate his office if—

- 45 (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;
- (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;
- 50 (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
- (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

60 period for which the member or alternate member concerned was appointed.

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

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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
25 council as the council may from time to time determine;

(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—

30 (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

35 (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—

40 (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
45 to in paragraph (b).

(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.

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- (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—

- (i) appoint a Registrar, who shall also act as its secretary, and such other persons as it may deem necessary, for achieving its objects;
- 25 (ii) determine the conditions of service, remuneration and allowances and the powers and duties of the registrar and the other employees of the council;
- (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;
- 30 (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—

- (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;
- 35 (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 amend the form of any such register, certificate or document;
- 40 (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;
- (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;
- 45 (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 persons registered in terms of this Act;
- 50 (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) 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—
- 10 (a) fees and fines paid in terms of this Act;
- (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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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) 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—
- 15 (i) a professional town clerk;
- (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 Remuneration of Town Clerks Act, 1984 (Act No. 115 of 1984),
- 30 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) 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.
- 15 (2) If the registration committee—
- (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
- (ii) uses that information for any purpose other than for discharging his official duties, whether or not he discloses that information;
- 50 (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) 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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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.

25 (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 30 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 35 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).

40 (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).

45 (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 50 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—

55 (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) 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.