

Statutory Instrument No. 81 of 1970

THE TOWNSHIPS PROCLAMATION (CHAPTER 120)

THE SELEBI-PIKWE TOWNSHIP REGULATIONS, 1970

(Published on the 25th September, 1970)

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FIRST SCHEDULE

SECOND SCHEDULE

In the exercise of the powers vested in him by section 2 of the Townships Proclamation (Chapter 120), His Excellency the President has been pleased to make the following regulations —

PART I

PRELIMINARY

Citation

1. These regulations may be cited as the Selebi-Pikwe Township Regulations, 1970.

Interpretation

2. In these regulations, unless the context otherwise requires —
 - “administrative officer” includes District Commissioner;
 - “Auditor” means person carrying out an audit in accordance with regulation 42;
 - “Executive Officer” means the person prescribed as such in regulation 13
 - “owner”, in relation to land, includes —

- (a) the person receiving the rent or profits of any land from the occupier thereof on his own account or as agent for a person entitled thereto;
 - (b) any person who lawfully occupies or holds land in accordance with an agreement whereunder he is entitled to obtain transfer of such land on the fulfilment by him of the conditions prescribed by such agreement;
- “Selebi-Pikwe Township” or “township” means the Selebi-Pikwe Township as defined from time to time in terms of the Townships Proclamation (Chapter 120);
- “Township Authority” means the Selebi-Pikwe Township Authority established by regulation 3.

PART II

ESTABLISHMENT, DUTIES AND POWERS OF TOWNSHIP AUTHORITY

Establishment of Selebi-Pikwe Township Authority

3. There shall be a Township Authority for the Selebi-Pikwe Township which shall be called the Selebi-Pikwe Township Authority.

Duties and Powers of Township Authority

4. It shall be the general duty of the Township Authority so to conduct the affairs of the township in accordance with these regulations and any other law as to secure and promote the health, order and good government of the township, and to that end the Township Authority shall have power to perform such functions as are specified in the First Schedule.

Constitution of Township Authority

5. (1) The Township Authority shall consist of a Chairman who shall be —

- (a) the administrative officer responsible for the township; or
- (b) another person who is a member of the Township Authority;

and not more than six nor less than three other members appointed by the Minister by notice in the Gazette. Of such other members, not more than two may be selected from persons nominated by the Board of Directors of Bamangwato Concessions Limited and not more than two may be selected from persons nominated by the Central District Council.

(2) The Chairman of the Township Authority shall be appointed by the Minister by notice in the Gazette.

Quorum of Township Authority

6. A quorum of the Township Authority shall be constituted by not less than half the total number of members.

Meetings of Township Authority

7. (1) The Township Authority shall meet at such times and places as the Chairman may appoint, and in no case less often than once in every three months.

(2) The Chairman shall cause a notice showing the time and place of every meeting to be exhibited on the notice board of the administrative officer responsible for the township and at such other places as the Township Authority may determine.

(3) Meetings of the Township Authority shall be open to the public and to the Press:

Provided that the Township Authority may by a majority of members present order that the Press or the public, or any member of the Press or the public, shall withdraw.

(4) The Township Authority may make standing orders to regulate the conduct of its business at meetings.

Voting of Township Authority

8. (1) All acts whatsoever authorised or required to be done by the Township Authority and all questions that may come before it shall be done and decided by a majority of votes of the members present.

(2) The Chairman shall, when the votes on any question are equal, have a casting vote in addition to his ordinary vote as a member.

Minutes of Meetings

9. (1) The Chairman shall cause minutes of each meeting of the Township Authority to be kept and such minutes shall be submitted for confirmation at the next meeting and confirmed or altered as the case may be, and signed by the Chairman.

(2) Copies of the minutes of meetings of the Township Authority shall be available to the Minister and to such other persons as he may specify.

(3) The minutes shall during normal business hours be open to the inspection of any owner or occupier of property or local government taxpayer within the township who may obtain a copy thereof on payment of such fees as may be fixed by the Township Authority in its bye-laws.

Interest of Members of Township Authority

10. (1) No member of the Township Authority shall be disqualified by his office from entering into any contract with the Township Authority nor shall any such contract entered into by or on behalf of the Township Authority in which any member of the Township Authority shall be in any way directly or indirectly interested be on account of such interest voided or set aside, nor shall any member of the Township Authority so contracting or being so interested be liable to account to the Township Authority for any profit realised by any such contract by reason of such member of the Township Authority holding that office:

Provided that the nature and extent of his interest shall be disclosed by him so that such disclosure is duly minuted prior to or at the meeting of the Township Authority at which the contract is determined upon, if the interest then exists, or in any other case at the first meeting of the Township Authority after the acquisition of his interest.

(2) No member of the Township Authority shall vote upon or take part in any discussion of any matter in or before the Township Authority in which he or his wife, partner or relative within the first degree of consanguinity or affinity is interested either directly or indirectly or in which any company of which he is an officer or a shareholder is interested either directly or indirectly.

(3) Any member of the Township Authority contravening the provisions of this regulation shall be guilty of an offence and liable on conviction to a fine of two hundred rand or in default of payment thereof to imprisonment for three months, and in addition shall become disqualified from continuing to be a member of the Township Authority.

rity and shall account to the Township Authority for any profit which may accrue to him in respect of such contract.

Defects in Appointment of Members of Township Authority .

11. Notwithstanding that it is discovered that there was some defect in the appointment of any member or the Chairman of the Township Authority, all proceedings of the Township Authority or of any person acting as Chairman thereof shall, if the Minister approves, be as valid and effectual as if every such member, or the Chairman, had been duly appointed.

Township Authority to be a Body Corporate

12. The Township Authority shall be a body corporate with perpetual succession and shall be capable of suing and being sued and, subject to the provisions of these regulations, of purchasing, holding and alienating land and of doing and performing all such acts and things as bodies corporate may by law do and perform.

Executive Officer

13. The administrative officer responsible for the township shall be the Executive Officer of and for the township.

Powers of Executive Officer

14. (1) The Executive Officer shall, subject to the general directions of the Township Authority, exercise the powers of the Township Authority and all acts done by him in the exercise of these powers shall be deemed to be done by the Township Authority.

(2) In any case of emergency any member of the Township Authority, or in any case where no such member is available any fit and proper person authorised in writing in that behalf by the Chairman for a period not exceeding 24 hours at a time, may exercise the powers of the Township Authority and all acts done by him in the exercise of those powers shall be deemed to be done by the Township Authority.

Appointment of Staff

15. (1) Subject to the approval of the Minister the Township Authority may appoint a Treasurer and such other staff as may be necessary for the good government of the township.

(2) The Local Government (Conditions of Service) Regulations, 1970 (Statutory Instrument No. 45 of 1970), shall apply, *mutatis mutandis*, to all members of such staff who have not been seconded from the public service, and for the purposes of such application the Township Authority shall be deemed to be a "Council", the Treasurer shall be deemed to be a "responsible officer", and such members of the staff as may be nominated by the Minister by notice in the Gazette shall be deemed to be "senior officers" and all other members to be "junior employees".

Power of Township Authority to Make Bye-Laws

16. (1) The Township Authority may, subject to the approval of the Minister make bye-laws for the health, order and good government of the township; and, without prejudice to the generality of the foregoing, may make bye-laws for all or any of the purposes set out in the Second Schedule.

(2) Such bye-laws may prescribe what licences or permits may be required thereunder, and may lay down the fees to be paid therefor, and may also prescribe the fees to be paid for any services to be rendered by the Township Authority.

(3) Such bye-laws may prescribe what acts or omissions shall constitute offences under, or breaches of the bye-laws and what penalties may be incurred therefor:

Provided that no penalty shall exceed a fine of two hundred rand or in default of payment thereof imprisonment for six months, or such imprisonment without the option of a fine or both such fine and imprisonment.

(4) Any bye-law may require acts or things to be performed or done to the satisfaction of a prescribed person, and may empower a prescribed person to issue directions to any other person requiring acts or things to be done, imposing conditions and prescribing periods within or before which such acts or things shall be performed or done or such conditions shall be fulfilled.

(5) All such bye-laws shall, after approval by the Minister, be published in the Gazette and the Chairman of the Township Authority shall cause a copy of such bye-laws to be exhibited on the notice board of the Township Authority and at such other places as the Township Authority may determine.

Powers of Entry

17. The Township Authority shall have power, by itself or by its officers, to enter into or upon any land or premises at all reasonable times for the purpose of carrying out any of the duties imposed or powers conferred under these regulations or under the provisions of any bye-law made under these regulations:

Provided that if the owner or occupier of such land or premises so requests, the Township Authority or its officers shall give such owner or occupier at least twenty-four hours' notice of the intention to enter such land or premises.

Authentication of Orders

18. Every order, notice or other document requiring authentication by the Township Authority may be sufficiently authenticated if signed by the Chairman or any person duly authorised by him.

Penalty for Obstruction

19. Every person who at any time obstructs the Township Authority or the Executive Officer or any person employed by the Township Authority or acting under the directions of the Township Authority in any function which it or he is empowered or required to exercise by these regulations or any bye-laws made hereunder or any other law shall be guilty of an offence, and liable on conviction to a fine of one hundred rand or in default of payment thereof to imprisonment for three months.

PART III

CONTRACTS AND TENDERS

Contracts for more than R100

20. (1) If the liability of the Township Authority under any contract for the supply of any goods or materials or the execution of any works or the provision of any services, other than professional services, for or to the Township Authority is to exceed R100 but not R1,000, the contract shall be in writing and the Township Authority shall not enter into it without inviting at least three quotations.

(2) This regulation, and regulation 21, shall not apply to any contract for the purchase by the Township Authority of perishable goods bought on a public market or

any purchase entered into by the Township Authority as the result of bidding at a public auction.

Contracts for more than R1,000

21. If the liability of the Township Authority under any contract for the supply of any goods or materials or the execution of any works or the provision of any services, other than professional services, for or to the Township Authority is to exceed R1,000 the contract shall be embodied in a formal document approved by the Township Authority and the Township Authority shall not enter into it without inviting tenders.

Three Quotations or Tenders to be Considered

22. Where under the provisions of these regulations the Township Authority may not enter into a contract without inviting quotations or tenders, as the case may be, it shall not be competent for the Township Authority to enter into such a contract except after consideration of at least three quotations or at least three tenders, as the case may be, unless for good and sufficient reasons recorded in the Township Authority's minutes three quotations or tenders cannot be obtained.

Notice Calling for Tenders to be Published and Posted

23. (1) Whenever the Township Authority is required to invite tenders in terms of regulation 21 it shall, in addition to any individual invitation it may issue, call for tenders by notice published in the Gazette and a newspaper circulating in Botswana, which notice shall also be posted on the notice board of the Township Authority.

(2) Such publication and posting shall be effected twenty-eight clear days before tenders are to be considered by the Township Authority.

Contents of Notice and Delivery of Tenders

24. (1) Any notice published and posted as in regulation 23 required, and any individual invitation for tenders, shall call for tenders to be delivered to the Township Authority by a specified time and a specified date, not being less than fourteen days after the date when the notice is last published or posted, in plain sealed envelopes marked "Tender for.....".

(2) All tenders shall be delivered by the time specified to the Township Authority in plain sealed envelopes marked as aforesaid.

Particulars of Contract to be Supplied

25. The Township Authority shall not enter into any contract to which regulation 21 applies unless full and identical particulars have been supplied to every person who, not later than three days after the notice calling for tenders was last published or posted, applies to the Township Authority therefor; such particulars shall be supplied to the applicants by the Township Authority within seven days after the said notice was last published or posted.

Opening of Tenders

26. (1) All tenders for any one contract shall be opened at one time in the presence of the Township Authority and the Treasurer.

(2) No later than seven days before any meeting for the opening of tenders is held written notice thereof shall be posted by the Township Authority to every person who has informed the Township Authority in writing of his wish to receive such notice.

Quotations and Tenders to be Considered by Township Authority

27. (1) Whenever the Township Authority is required to invite quotations or tenders, those which have been received shall be placed before the Township Authority and be by it considered.

(2) For the purpose of considering quotations or tenders the Township Authority shall have power to obtain professional or technical advice.

Matters to be taken into Account

28. (1) In considering quotations or tenders the Township Authority shall take into account the contractual reliability of the tenderers or the persons submitting quotations as well as the need to achieve economy, efficiency and the development of Botswana industries.

(2) The Township Authority is not obliged to accept the lowest or any tender or quotation but in any case where the lowest quotation is not accepted the reasons why it is not accepted shall be recorded in the Township Authority's minutes, and the Township Authority shall report the reasons to the Minister.

Signature of Contracts

29. Contracts required by these regulations to be in writing or to be embodied in a formal document shall be signed on behalf of the Township Authority by the Chairman and the Treasurer.

Tenderers to be Informed

30. When the Township Authority has decided upon the question of acceptance of tenders it shall forthwith inform the tenderers, whether successful or unsuccessful, of the result.

PART IV

VALUATION AND RATING

Application of Part VI of Legal Notice No. 37 of 1966

31. With the exception of regulations 56, 57, 86 and 87 of the Town Council Regulations, 1966, Part VI of those Regulations shall *mutatis mutandis* apply within the township, and for the purpose of such application —

- (a) the Township Authority shall be deemed to be a "council";
- (b) for "District Commissioner" shall be read "Township Authority";
- (c) for "Mayor" shall be read "Chairman of the Township Authority";
- (d) for "council area" shall be read "township"; and
- (e) for "Town Clerk" shall be read "Executive Officer".

Basis of Valuation

32. Subject to the provisions of regulation 53 (2) of the Town Council Regulations, 1966, where a general or interim valuation is made —

- (a) if any land is to be valued with improvements the basis of valuation of such land shall be the capital sum which that land might be expected to realise if

offered for sale with all improvements existing thereon at the time of the valuation on such reasonable terms and conditions as a *bona fide* seller would require; and

- (b) if any land is to be valued without improvements the basis of valuation of such land shall be the capital sum which that land might be expected to realise if offered for sale exclusive of the improvements existing thereon at the time of the valuation on such reasonable terms and conditions as a *bona fide* seller would require;

due regard being had in either case not only to such particular rateable land, but to other rateable land of a similar class, character, value or position, and the land shall be considered subject to any restrictions imposed on it by the Township Authority under its bye-laws or by any town planning scheme which may either increase or decrease the value of such land:

Provided that any exceptional circumstance of a temporary nature which is likely to cause an abnormal price to be paid, shall be disregarded in arriving at the estimated price.

Particulars to be inserted in the Valuation Roll

33. The Valuation Officer shall frame any valuation roll in such manner as to show —
- (a) the situation of the land;
 - (b) the full name of the owner, and his address;
 - (c) the description of the land;
 - (d) the value of the land both with and without improvements.

Resumption of Possession by Owner

34. Within three months after demand by the owner of any land taken possession of by the Township Authority in pursuance of regulation 83 of the Town Council Regulations, 1966, made within thirty years after the date of taking possession, and after payment of all arrears of rates due in respect thereof and interest upon all such arrears at the rate of one per centum per month or part thereof, such owner shall be entitled to resume possession of such land, subject to the terms of any lease theretofore lawfully granted by the Township Authority under the provisions of these regulations.

Application of Moneys Received under Leases by the Township Authority

35. All rent, and all other moneys payable under any such lease, shall, until the payment of all arrears and interest, as aforesaid by the owner, or the expiration of thirty years from the date of taking possession of such land by the Township Authority, whichever first happens, be received by the Township Authority and shall be applicable —

- (a) in defraying the expenses of and incidental to the giving of the notices as aforesaid, and the execution of such lease and the collection of the rents;
- (b) in payment to the Township Authority of all arrears of rates and other payments due in respect of such land, together with interest on all arrears of rates at the rate of one per centum per month or part thereof, from the time when interest upon such rates accrues respectively, and in payment of all rates and other payments becoming due thereon;

and the residue of such money shall belong to such person as would have been entitled to receive the rents or profits of such land if these regulations had not been brought into operation.

PART V

FINANCIAL PROVISIONS

Financial Year of Township Authority

36. The financial year of the Township Authority shall be the period of twelve months ended the thirty-first of December in each year, and the Township Authority shall cause its books to be balanced within three months of the end of each financial year.

Banking Account

37. The Township Authority shall open in its name a banking account into which all income received by it under the provisions of these regulations or any other law shall be paid unless such other law make different provision with respect thereto.

Estimates

38. (1) The Township Authority shall, not later than six months before the end of its financial year, draw up estimates of probable revenue and expenditure for the financial year next ensuing. Such estimates shall be in the form prescribed by the Minister, and a copy thereof signed by the Chairman of the Township Authority shall be submitted to the Minister who may approve, amend or disallow them in whole or part as he thinks fit.

(2) The Minister shall direct the Township Authority to make a copy of the said estimates as amended or approved by him available for inspection by the public at the offices of the Township Authority.

(3) Whenever any estimate as aforesaid has been approved by the Minister it shall not be lawful for the Township Authority, except with the approval of the Minister, to place any new revenue or expenditure item thereon, or to increase any expenditure item, or incur expenditure in excess of any item, whether against a saving under any other item or not.

Books to be Kept

39. (1) The Minister shall direct what books and forms of account shall be maintained by the Township Authority, which shall enter therein all sums of money received by it or expended for it.

(2) The Township Authority shall issue such financial instructions as are necessary to give proper effect to the provisions of the preceding subregulation.

Loans and Overdrafts

40. (1) The Township Authority may, with the approval of the Minister, incur such loans of money as may be necessary from time to time for the proper carrying out of the provisions of these regulations or any bye-laws made.

(2) The Township Authority may arrange overdraft facilities with its bankers for an amount not exceeding its total income in the preceding financial year provided the approval of the Minister acting in accordance with the advice of the Minister responsible for Finance is first obtained.

(3) All moneys borrowed in accordance with this regulation and the interest thereon shall be a charge on the rates and revenues, present and future, of the Township Authority.

Investment of Funds

41. Any funds in the hands of the Township Authority, with the exception of deposits, which are not required for immediate use may be invested by the Township Authority in the Botswana Post Office Savings Bank, or with any commercial bank or building society lawfully carrying on business in Botswana, or in such other manner as the Minister may approve.

Books and Accounts to be Audited

42. (1) The books and accounts of the Township Authority shall be audited annually by the Local Government Audit Department of the Ministry of Local Government and Lands or by an Auditor appointed by the Minister.

(2) The Township Authority shall within one month after the books have been balanced in accordance with the provisions of regulation 36 make available for inspection by the Local Government Audit Department or by the Auditor appointed by the Minister a balance sheet and revenue and expenditure account signed by the Chairman of the Township Authority and the books so balanced together with all vouchers in support of the same and all books, papers and writings in its custody or power relating thereto.

PART VI

AUDIT

Duties and Powers of Auditor

43. (1) It shall be the duty of the Auditor to examine, enquire into and audit the revenue and expenditure account and balance sheet referred to in the preceding regulation and the books and accounts of all persons entrusted with the receipt, custody or issue of moneys, securities or other property of the Township Authority or for which the Township Authority is responsible.

(2) When the Auditor has completed his examination in terms of subregulation (1), he shall make a report to the Minister certifying that the accounts and books of the Township Authority have been duly examined and signifying his acceptance or otherwise of such accounts and books. The report rendered in terms of this subregulation shall include the Auditor's comments on the manner of collection, accounting for, custody and disbursement by the Township Authority of moneys payable to the Township Authority, the necessity for and adequacy of any reserve funds and the amounts set aside for depreciation and obsolescence of plant, and any matters as to which he has not been satisfied or which in his opinion call for special notice particularly with regard to any assets taken into account.

(3) The Minister shall submit the report by the Auditor to the Township Authority with such further comment as he may himself desire to make.

Township Authority to Give Notice

44. Upon the receipt by the Township Authority of the Auditor's certificate and report it shall give notice by publication in the Gazette, that the revenue and expenditure account and the balance sheet as certified by the Auditor together with a copy of his

report are open to inspection during normal office hours at the Township Authority's offices for a period of not less than fourteen days from the date of publication of the notice.

Consideration of Auditor's Report by Township Authority

45. (1) Immediately after the expiration of the period during which the revenue and expenditure account and the balance sheet were open to inspection the Township Authority shall consider such accounts and the Auditor's report on them together with any other representations which may have been made.

(2) In the event of the Auditor having reported on any irregularities the Township Authority shall decide what action should be taken in regard to the matters reported upon by the Auditor and shall advise the Minister of the action taken or proposed to be taken.

Disallowance and Surcharge

46. (1) The Auditor may make objection in his report to any item of expenditure.

(2) The Auditor shall disallow any such item of expenditure or any part of such item on the ground that the expenditure is wrongful or unreasonable or on any other ground, and the Auditor may by order in writing surcharge any person as the person responsible for the payment of any such item having been made.

(3) If it shall appear to the Auditor that any failure to collect money due, or any loss of money or damage to the property of, the Township Authority has occurred through the wilful or negligent or wrongful act of any member, officer, or employee of the Township Authority he shall by order in writing surcharge the amount thereof on such member, officer or employee.

(4) On ordering such surcharge, the Auditor shall forthwith report the details thereof to the Minister in writing and notify in writing the person surcharged that he may within twenty-one days of such notification make representations respecting such surcharge to the Minister.

(5) After the expiry of the period of twenty-one days referred to in subregulation (4) the Minister may confirm the surcharge or remit all or any portion thereof as he may deem fit. The surcharge shall be effective only to the extent to which it is so confirmed.

Recovery of Surcharge

47. Any surcharge raised in terms of regulation 46 shall be a debt due to the Township Authority which may be sued for and recovered by action in any court of competent jurisdiction at the suit of the Township Authority.

FIRST SCHEDULE

(regulation 4)

Functions which may be Performed by the Selebi-Pikwe
Township Authority

Education

1. To provide primary school and other education services in relation to primary education.

Health

2. (1) To provide sanitary services for the removal and destruction of, or for otherwise dealing with, nightsoil and refuse.

(2) To take steps in addition to those taken by any other authority to safeguard and promote public health and prevent the occurrence of or deal with any outbreak or prevalence of any disease.

(3) To provide public lavatories.

(4) To prevent the breeding of disease-carrying animals and insects.

(5) To provide for the destruction of dogs and other animals believed to be, or suspected of being, rabid.

Communications

3. To make, alter and maintain public roads and streets other than those the maintenance of which has been undertaken by the Government, and to name all roads and streets within the council area.

General Administration

4. (1) To provide for the protection of common property.

(2) To protect common land and pastures.

(3) To establish and maintain common markets.

(4) To establish and maintain recreation grounds and other public places and to provide for the planting and protection of plants and shrubs.

(5) To establish and maintain stockyards, pens and dipping tanks.

(6) To collect and dispose of stray livestock and other domestic animals, and to establish, maintain and operate pounds.

(7) To establish and maintain cemeteries and burial grounds.

(8) To provide services or assist in the provision of services giving relief from or attempting to avert natural calamity.

(9) To assist associations existing for the promotion of recreation and sport, arts and crafts or for the welfare of children or young persons or for the relief and support of blind, infirm, indigent, aged or destitute persons.

Commercial

5. To enter into contracts or concessions for the sale of land or premises or of any interest therein.

Implementation of Bye-Laws

6. To carry into effect any bye-laws made by the Township Authority.

Township Authority and Staff

7. To secure the proper working of the Township Authority and the welfare of its employees.

Electricity Supplies

8. To provide public electricity supplies in accordance with any law relating to the supply of electricity.

Housing

9. With the approval of the Minister, on land vested in the Township Authority to build, maintain and let out housing.

SECOND SCHEDULE

(regulation 16(1))

Purposes for Which the Selebi-Pikwe Township Authority (with the Minister's Approval) May Make Bye-Laws

1. For the better carrying into effect of any function conferred on the Township Authority in terms of regulation 4 as read with the First Schedule.
2. To control common land and pastures.
3. To control common markets.
4. To control recreation grounds, parks and other public places.
5. To control stockyards, pens and dipping tanks.
6. To control cemeteries and burial grounds.
7. To control or prevent advertising, dangerous trades, nuisances, noises and street collections.
8. To regulate, control and license laundries.
9. To regulate the keeping of domestic or wild animals or bees, poultry or pigeons; to fix a minimum size of any stand, lot, premises or area upon which such animals may be kept and to prohibit the use of any stable, cowshed, pen or sty which in the opinion of the Township Authority is unfit, undesirable or objectionable by reason of its locality, condition or manner of use.
10. To regulate, control and to arrange the brewing, distribution and sale of traditional beer.
11. To license bicycles.
12. To fix and levy rates upon land, which may include different rates upon different classes of land, for municipal purposes.
13. To fix fees payable for inspection of the minutes of the Township Authority.

A.M. MOGWE,
Permanent Secretary

Office of the President,
GABORONE.
18th September, 1970.
L 2/7/173.