

Act No. 79  
of 1961.

## ACT

To provide for the establishment of urban Bantu councils, the conferring on certain Bantu of civil and criminal jurisdiction in urban areas, the establishment of community guards in certain areas, and matters incidental thereto, and to amend the Natives (Urban Areas) Consolidation Act, 1945.

(English text signed by the State President.)  
(Assented to 30th June, 1961.)

**BE IT ENACTED** by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Definitions  
and interpretation.

1. (1) In this Act, unless the context otherwise indicates, any expression to which a meaning has been assigned in the Natives (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945), bears the meaning so assigned thereto, and—

- (i) "Bantu" has the same meaning as "Native"; (i)
- (ii) "principal Act" means the Natives (Urban Areas) Consolidation Act, 1945; (iii)
- (iii) "this Act" includes any regulation; (ii)
- (iv) "urban Bantu council" means a council established in terms of section *two*; (iv)
- (v) "urban Bantu residential area" includes a location, a native hostel and a native village. (v)

(2) This Act and the principal Act shall be construed as if they formed one Act.

Establishment  
of urban Bantu  
councils.

2. (1) Subject to the provisions of sub-section (2) an urban local authority may establish an urban Bantu council for—

- (a) any urban Bantu residential area under its jurisdiction or any portion of such area or for any such area and such portion or two or more such areas or two or more portions of such areas jointly; or
- (b) the Bantu belonging to any national unit referred to in sub-section (1) of section *two* of the Promotion of Bantu Self-government Act, 1959 (Act No. 46 of 1959), and resident in any urban Bantu residential area under its jurisdiction or any portion of such area or in any such area and such portion or two or more such areas or two or more portions of such areas.

(2) Before establishing an urban Bantu council in terms of sub-section (1) for or in respect of any area the urban local authority shall—

- (a) if such area or any portion thereof coincides with or

**Act No. 79  
of 1961.**

includes or falls within an area for which a native advisory board has been established in terms of section *twenty-one* of the principal Act, consult such board in regard thereto; and

(b) if such first-mentioned area or any portion thereof is not included in any such last-mentioned area, so consult the Bantu community in the area which is not so included.

(3) An urban local authority shall—

(a) if requested by a native advisory board established by it in terms of section *twenty-one* of the principal Act, to establish an urban Bantu council referred to in sub-section (1) of this section for or in respect of the area or any portion of the area for which such board was so established, establish such a council in accordance with such request; and

(b) establish such a council for or in respect of any area for or in respect of which it may establish a council in terms of sub-section (1), if the Minister, after consultation with the Bantu community in such area, is satisfied that such community desires that council to be established and he directs such authority to establish it.

(4) An urban local authority may at the request of an urban Bantu council established by it, alter the area for or in respect of which such council was established, by adding thereto or excising therefrom any urban Bantu residential area under its control or any portion of such an area or dissolve such council and establish another urban Bantu council in the place thereof.

Constitution  
of urban  
Bantu  
councils.

3. (1) An urban Bantu council shall consist of so many elected and selected Bantu, in all not being less than six, as the urban local authority may determine: Provided that the number so determined in respect of the members to be selected shall not exceed the number so determined in respect of those to be elected.

(2) Subject to the provisions of sub-section (1) the urban local authority may at any time at the request of an urban Bantu council, increase or decrease the number of members of that council.

(3) (a) Only Bantu resident in the urban area in question shall be qualified to be elected as members of an urban Bantu council and to hold office as elected members thereof.

(b) The members of an urban Bantu council—

(i) who are to be elected shall—

(aa) in the case of an urban Bantu council established for Bantu belonging to a particular national unit, be elected by Bantu belonging to that national unit and resident in the area in respect of which that council

**Act No. 79  
of 1961.**

has been established and having the prescribed qualifications; and

(bb) in the case of any other urban Bantu council, be elected by Bantu resident in the area for which that council has been established and having the prescribed qualifications; and

(ii) who are to be selected, shall be selected, after their candidature has been approved by the Minister and the urban local authority, by and from the representatives of Bantu chiefs recognised in the manner prescribed by the Minister and who are—

(aa) in the case of an urban Bantu council established for Bantu belonging to a particular national unit, members of that unit; and

(bb) in the case of any other urban Bantu council, members of national units of which, in the opinion of the urban local authority, there are so many members resident in the area for which that council has been established that they should be represented on that council,

and shall be qualified to hold office as selected members only so long as they are such representatives.

**Powers, functions  
and duties of  
urban Bantu  
councils.**

**4. (1)** An urban Bantu council and the members thereof shall exercise the powers and perform the functions and duties which in terms of the principal Act or any other law are conferred or imposed upon a native advisory board established in terms of section *twenty-one* of that Act and the members thereof, respectively, as if such council were a board so established.

**(2)** An urban Bantu council shall also—

(a) in respect of the area for or in respect of which it has been established, exercise such powers and perform such functions and duties of an urban local authority in respect of one or more of the following matters in connection with Bantu as the urban local authority may after consultation with the Administrator in question assign to such council with the concurrence of and subject to such conditions as may be determined by the Minister:

(i) the lay out of the area;

(ii) the accommodation of Bantu not living under conditions of family life;

(iii) the removal of persons unlawfully resident in the area;

(iv) the unlawful occupation of land and buildings;

(v) the management and control of the area (including the determination of the order of priority to be observed in the allocation of residential facilities) and the maintenance of good order therein;

**Act No. 79  
of 1961.**

- (vi) the erection and use of dwellings, buildings and other structures, and the removal or destruction of unauthorized or abandoned buildings or structures;
  - (vii) the allotment of sites for church or school purposes;
  - (viii) the prohibition, regulation or restriction of the keeping of animals, and the grazing on any commonage of stock belonging to persons living in the area;
  - (ix) the prohibition or the regulation of entry into or sojourn in the area;
  - (x) the provision of sanitary, health and medical services;
  - (xi) the moral and social welfare of persons living in the area;
- (b) have power to control and manage, subject to the provisions of this Act, a community guard established in terms of section *seven* in respect of the area;
- (c) consider and report to the Chief Native Commissioner in question or the Native Commissioner in question on any matter referred to it by such Chief Native Commissioner or Native Commissioner or which it deems it advisable so to report on;
- (d) if it has been established for the Bantu belonging to a particular national unit, assist and advise any representative recognized in respect of that national unit in terms of section *four* of the Promotion of Bantu Self-government Act, 1959 (Act No. 46 of 1959), in regard to matters affecting such Bantu;
- (e) exercise such other powers and perform such other functions and duties as in the opinion of the Minister ought to be exercised or performed by an urban Bantu council in respect of the area for or in respect of which it has been established and as the Minister may after consultation with the Administrator in question assign to it with the concurrence of the urban local authority in question and subject to such conditions as the Minister may determine;
- (f) have power, subject to the provisions of any applicable law, to provide for any matter relating to the exercise of its powers or the performance of its functions or duties for which it considers it expedient to provide, including provision for the delegation of executive powers to a committee of such council or any Bantu designated by it.

(3) If the Minister after a report by the Native Affairs Commission established or deemed to have been established under the Native Affairs Act, 1959 (Act No. 55 of 1959), is satisfied that the concurrence of an urban local authority referred to in paragraph (e) of sub-section (2) of this section



- Act No. 79 of 1961.** is in regard to any matter being withheld unreasonably, he may in regard to such matter act in terms of that paragraph without such concurrence.
- Conferring of civil and criminal jurisdiction on certain Bantu.
5. (a) The Minister may confer on a Bantu designated by an urban Bantu council who is a member of such council or a representative of a Bantu chief recognized for the purposes of sub-section (3) of section *three*, in respect of the area for or in respect of which such council was established, the same power and jurisdiction as in terms of sections *twelve* and *twenty* of the Native Administration Act, 1927 (Act No. 38 of 1927), may be conferred on a Bantu chief or headman.
- (b) Subject to the provisions of section *six* the appropriate provisions of the said sections *twelve* and *twenty* and any regulations made thereunder, shall *mutatis mutandis* apply in connection with any power or jurisdiction conferred on any person in terms of paragraph (a).
- Consultation with urban Bantu council in exercise of civil and criminal jurisdiction in urban area by Bantu.
6. No judgment, decision or direction given or order issued by any person in the exercise of any power or jurisdiction conferred on him in terms of section *five* or by any person referred to in sub-section (2) of section *five* of the Promotion of Bantu Self-government Act, 1959 (Act No. 46 of 1959), in the exercise of any power or jurisdiction conferred on him in terms of section *twelve* or *twenty* of the Native Administration Act, 1927 (Act No. 38 of 1927), shall be invalid merely by reason of the fact that it was given or issued by the person in question after consultation with any urban Bantu council or any member of such a council.
- Establishment and functions of community guards.
7. (1) The Minister may after consultation with the Minister of Justice and an urban Bantu council or two or more such councils jointly establish for the area or areas for or in respect of which such council has been established or those councils have been established a community guard for—
- (a) the preservation of the safety of the inhabitants of the area in question;
- (b) the maintenance of law and order therein; and
- (c) the prevention of crime therein.
- (2) The constitution of any community guard so established, the control and management thereof and the appointment, powers, functions, duties and discipline of the members thereof shall be as prescribed by the Minister.
- (3) Nothing in this section contained shall be construed as derogating from the functions of the South African Police or from the powers, functions and duties of a member thereof.
- Finances of urban Bantu councils.
8. (1) An urban Bantu council shall pay over to the urban local authority in question—

**Act No. 79  
of 1961.**

(a) every amount received by such council or any member thereof by virtue of the exercise of any power or the performance of any function or duty under or in terms of the provisions of this Act;

(b) every amount collected in respect of a fine imposed by a person in the exercise of criminal jurisdiction conferred on him in terms of section *five*.

(2) The urban local authority shall pay into its native revenue account—

(a) every amount paid over to it in terms of paragraph (a) of sub-section (1) which would ordinarily have been paid by it into such account;

(b) every amount paid over to it in terms of paragraph (b) of the said sub-section.

(3) The native revenue account of the urban local authority in question shall be chargeable with—

(a) any expenditure incurred by such local authority in connection with any urban Bantu council established by it;

(b) any expenditure incurred with the approval of such local authority by such council or any member thereof in the exercise of any power or the performance of any function or duty under or in terms of this Act;

(c) any expenditure incurred with the approval of such local authority by a person in the exercise of criminal jurisdiction conferred on him in terms of section *five*.

(4) If an urban local authority has established an urban Bantu council any estimates of expenditure referred to in sub-section (5) of section *nineteen* of the principal Act shall, except in so far as it relates to the appropriation of moneys from the native services levy fund, be prepared by such local authority after consultation with such council in the manner determined by such local authority or, if the Minister is satisfied that a manner so determined does not afford an opportunity for proper consultation, in the manner then determined by the Minister.

**Abolition of  
native  
advisory  
boards.**

9. (1) If an urban Bantu council is established for or in respect of any portion of any area for which a native advisory board has been established in terms of section *twenty-one* of the principal Act, such board shall cease to exercise any power or perform any function or duty in respect of that portion of such area, and if such council is established for or in respect of the whole of the area for which a native advisory board has been so established, such board shall cease to exist.