



Republic of Namibia
Annotated Statutes

REGULATIONS

REGULATIONS MADE IN TERMS OF

Local Authorities Act 23 of 1992

section 95(5)

Model Staff Regulations

Government Notice 119 of 1969

(OG 3025)

came into force on date of publication: 2 October 1969

The Model Staff Regulations were originally made in terms of section 244 of the Municipal Ordinance 13 of 1969, which was repealed by the Local authorities Act 23 of 1992. Pursuant to section 95(5) of the Local authorities Act 23 of 1992, the Model Staff Regulations are deemed to have been made under that Act.

as amended by

Government Notice 10 of 1970 (OG 3047)

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Government Notice 38 of 1971 (OG 3151)

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Government Notice 30 of 1981 (OG 4456)

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ARRANGEMENT OF REGULATIONS

[Some individual regulations do not have headings.]

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CHAPTER I

DEFINITIONS

1. In these regulations, unless the context indicates otherwise -

“continuous service” means the period from the date of assumption of duty to the date of termination of service with the council and includes any period of absence on properly authorised vacation leave, sick leave, special leave, bonus leave and leave without pay;

“stand-by duty” means the period before and after normal daily working hours throughout which an employee shall keep himself ready for urgent duties in respect of services decided upon by the council;

“factory worker” means an employee as defined in section 2 of the Factories, Machinery and Building Work Ordinance, 1952 (Ordinance 34 of 1952);

“head of department” means a head of a department as defined in section 148(15) of the ordinance;

[definition of “head of department” substituted by GN 162 of 1971]

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“municipal area” means the area of any municipality in respect of which a council exercises jurisdiction;

“municipality” means the municipality concerned established or instituted under Ordinance 13 of 1963, or any other law to which these regulation apply;

“public holiday” means any of the days contained in the first and second schedules to the Public Holidays Act, 1952 (Act 5 of 1952) and such other days as may from time to time by any law or by proclamation be declared to be public holidays;

“the ordinance” means the Municipal Ordinance 1963 (Ordinance 13 of 1963);

“pension fund” means a pension fund instituted under section 239 of the ordinance and includes any united pension fund of two or more councils;

“council” means the council of any municipality;

“town clerk” means the town clerk of any municipality or his authorised deputy;

“former conditions of service” means the staff rules or agreements contained in the conditions of service of employees with the council before the commencement of these regulations and which are superseded by these regulations;

“employee” means a white employee in the permanent service of the council but excludes any casual labourer or apprentice;

[definition of “employee” substituted by GN 162/1971]

and any other words and expressions shall have the same meaning as that given them in the ordinance.

[Definitions were not listed in alphabetical order in the Official Gazette, as reproduced above.]

CHAPTER II

APPOINTMENTS, VACANCIES AND SALARY INCREASES

Appointments

2. (1) Subject to the provisions of section 148 of the ordinance no person shall be appointed in any permanent capacity unless -

- (a) he has completed the trial period required by the council;
- (b) the head of the department concerned of a municipality mentioned in Part I of the Fifth Schedule of the ordinance and the town clerk of a municipality mentioned in Part II of the Fifth Schedule of the ordinance has issued a certificate in the form prescribed by the council in respect of such person that such person has completed his trial period satisfactorily;

[subregulation (b) substituted by GN 162/1971]

- (c) he is a citizen of the Republic of South Africa;

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- (d) he is not under 16 years of age and not over 50 years of age or otherwise is already a member of an approved pension fund and his benefits from such membership are transferred to the pension fund;
- (e) he is able to read, write and speak both official languages.

(2) No person may be appointed in a permanent capacity unless he has submitted a certificate by a medical practitioner in the form prescribed by the council, in which it is certified that he is free of any mental or physical disability, illness or infirmity which would probably hamper the execution of his duties or which would necessitate his retirement from such post on a date earlier than the prescribed retirement age.

[subregulation (2) amended by GN 10/1970 and by GN 162/1971]

(3) Every employee shall, within thirty days after assumption of duty or within such extended period as the council may grant, hand to the town clerk or to an employee designated for such purpose by the town clerk the following documents for entry in the council's records -

- (a) A birth certificate or other satisfactory proof of his full name and date of birth;

[The above subregulation should not be capitalised.]

- (b) proof of naturalisation, if applicable;
- (c) a marriage certificate, if married;
- (d) proof of his qualifications as mentioned in his application;
- (e) a medical certificate as referred to in subregulation (2); and

[Subregulation (e) amended by GN 10/1970]

- (f) any other document reasonably required by the town clerk.

(4) If any employee fails to submit the documents mentioned in subregulation (3) within the said period of thirty days or within such extended period as the council may have granted, such employee's services may be terminated on such notice as the council may deem fit.

(5) Any employee appointed for a trial period as referred to in subregulation (1)(a) shall contribute to and become a member of the pension fund and a medical aid fund approved by the council.

3. No applicant for a post with the council may be guilty of personal canvassing for the purpose of obtaining an appointment or any particular salary. Such action shall render any candidate unfit for appointment in the post concerned.

Employment after Retiring Age

4. Subject to the provisions of the statutes, rules or regulations of the pension fund an employee who has reached retiring age shall leave the service and thereupon all benefits accruing to him under these regulations shall be paid out to him. The council may re-employ any employee

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who has reached retiring age and has left the council's service, in a temporary capacity on such conditions as the council may deem fit.

Vacancies

5. Every vacancy for a permanent post shall be posted up by way of a notice at the municipal offices and made known to the council's staff.

Salary Increases

6. (1) The annual salary increases of the town clerk and heads of departments shall be approved by the management committee: Provided that the management committee may delegate the power of approval, but not the power of refusal, of the annual salary increase of heads of departments to the town clerk.

[subregulation (1) amended by GN 162/1971]

(2) The town clerk or the head of any department may, in respect of staff under his control, annually grant salary increases to a maximum of one notch of the appropriate, approved salary scales, if an employee has performed his prescribed duties satisfactorily in the previous period of 12 months and who qualifies for an increase under his conditions of service: Provided that the management committee, on recommendation of the town clerk, may grant more than one notch of the relevant approved salary scale.

[subregulation (2) amended by GN 162/1971]

(3) If the town clerk or the head of any department refuses any salary increase of an employee who, under his conditions of service, is entitled thereto, he shall inform the employee concerned in writing why the salary increase has not been granted and report the matter to the management committee or to a committee, to which the management committee has delegated its powers for the purpose. Such committee may, after consideration, grant such employee's salary increase either wholly or in part or withhold it for such period as it may deem fit.

(4) When an employee's annual salary increase is with-held because he does not possess the necessary die qualifications required by the council, he shall, as basis soon as he does subsequently qualify, not be entitled to an increase of more than one notch on the approved salary scale.

(5) Where an employee passes an examination and acquires a qualification which, in the opinion of the council, exceeds the requirements of the post concerned occupied by such employee, the council may grant to such employee a special increase as approved by it with effect from the date on which he acquired such qualification.

[subregulation (5) inserted by GN 162/1971]

CHAPTER III**Working Hours and Overtime**

7. Subject to the provisions of any law -

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(1) the council shall from time to time determine the normal working hours of its employees or groups of its employees and such employees shall comply with such working hours;

(2)

[subregulation (2) deleted by GN 162/1971]

8. Subject to the provisions of any law -

(1) payment for overtime worked shall vest solely in the council;

(2) the council shall determine the circumstances in which, the conditions on which and the tariff at which overtime shall be paid, as also the groups of employees who shall be paid for overtime work;

(3) the town clerk or the head of any department may, where activities necessitate it, require an employee to work overtime or call him for service on a Saturday (if such employee does not work on Saturdays), on a Sunday or a public holiday without binding the council to pay any overtime, and such employee shall work such overtime.

9. The council may, subject to the provisions of the Factories, Machinery and Building Work Ordinance, 1952 Ordinance 34 of 1952) by resolution determine that -

(1) a fixed amount be paid monthly to any particular employee or group of employees in respect of overtime which may be worked instead of overtime remuneration on the usual basis;

(2) a special payment be made to any employee who performs work of a special nature over and above his ordinary work and/or fulfils duties under extraordinary circumstances of which the extent is such that they cannot be performed during ordinary working hours;

(3) an employee who has to work on the instructions of the town clerk or a head of any department on a public holiday or a day on which work is not usually done, shall be compensated therefor by means of special leave of absence on full pay for a working day within the next 14 days or be credited with a day's leave, over and above his ordinary vacation leave, in the leave register.

10. The council may also in respect of an employee, who has to be available for stand-by duty after ordinary working hours, in addition to any allowance paid to him to be at all times available, also remunerate him in respect of the period he actually worked on the usual basis of overtime remuneration.

Loss of Time

11. An employee who is remunerated by the hour and who arrives late at work, may be prohibited from beginning with his work until thirty minutes have passed after the fixed time he was to have begun; if he is later than thirty minutes, he shall not, without the express permission of his supervisor, begin with his work on that day: Provided that such an employee shall forfeit a *pro rata* part of his wages in relation to the loss of time.

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[regulation 11 substituted by GN 162/1971]

CHAPTER IV

Termination of Service

12. (1) Subject to the provisions of any law and the council's pension rules the services of an employer may be terminated by the council -

- (a) on account of continuing bad health or illness or continuing unfitness for work;
- (b) on account of the abolition of his post or any reduction in or reorganisation or rearrangement of departments or posts on the fixed establishment;
- (c) on account of misconduct;
- (d) in the case of an employee appointed on trial, if his services are unsatisfactory; or in the case of an employee appointed temporarily, for any reason deemed sufficient by the council.

(2) Subject to the provisions of section 148(4) and (6) of the ordinance, the services of an employee appointed permanently or on trial may, in the cases mentioned in subregulation (1), be terminated on 30 days notice in writing and, in the case of an employee appointed temporarily on 24 hours notice in writing: Provided that the council may dismiss an employee summarily, if he is found guilty of an act of misconduct.

(3) The services of an employee appointed temporarily or on trial shall terminate *ipso facto* on the expiry of such period of temporary appointment or service on trial, unless such period is extended or unless the employee appointed on trial is appointed permanently. A period of trial service shall be at least 6 months and not longer than 12 months. If the council is not prepared to appoint an employee permanently after 12 months on trial, the period of trial shall not be extended and such employee may be kept in service only in a temporary capacity.

13. (1) An employee appointed permanently or on trial may terminate his service with the council by giving thirty days notice in writing: Provided that a shorter period of notice may be accepted.

(2) An employee not appointed permanently or on trial may terminate his service with the council by giving twenty-four hours notice in writing unless his contract of service with the council provides otherwise.

CHAPTER V

LEAVE OF ABSENCE

14. (1) The provisions of the regulations contained in this chapter shall apply to all employees except where otherwise provided by agreement with certain classes of employees.

[subregulation (1) substituted by GN 162/1971]

- (2) Leave of absence shall be granted subject to the exigencies of the service.

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15. (1) All leave of absence under these regulations shall be classified under one of the following heads -

- (a) Vacation leave;
- (b) sick leave;
- (c) bonus leave;
- (d) special leave with or without pay.

(2) The granting of leave of absence classified under any head shall not influence the granting of leave of absence classified under any other head except in so far as it is specially provided otherwise in these regulations.

Vacation Leave

16. (1) Subject to the Factories, Machinery and Building Work Ordinance, 1952, vacation leave on full pay in respect of every twelve months service with the council shall be granted to employees in the various groups according to a scale determined by the council, but which shall in no case exceed the maximum number of days given below -

- (a) Employees working a five-day week:

GROUP A:

The town clerk, heads of departments and any employee receiving a salary equal to or higher than the salary of any head of a department with the same council 35 working days a year.

GROUP B:

other employees 32 working days a year.

- (b) Employees working a six-day or seven-day working week:

The same grouping applies as determined in subregulation (a) and the formulae for the calculation of leave are as follows:

six-day week
 $a \times 6/5$

seven-day week
 $a \times 7/5$

In the above-mentioned formulae a represents the number of days leave granted under subregulation (a) (fractions of a day are to be left out of account).

[subregulation (1) amended by GN 10/1970 and substituted by GN 162/1971]

- (2)

[subregulation (2) deleted GN 162/1971]

17. In the calculation of vacation leave granted to employees who work a five-day working week, public holidays, Saturdays and Sundays shall not be included in the leave period; in the case of employees working a six-day working week, public holidays and Sundays shall not

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be included and in the case of employees working a seven-day working week only public holidays shall not be included in the leave period.

18. (1) Vacation leave shall accumulate on a *pro rata* basis according to the period of completed service: Provided that an employee shall not without the special approval of the council at any stage take more than the following number of days vacation leave -

130 working days where the employee works a five-day working week.

156 working days where the employee works a six-day working week.

182 working days where the employee works a seven-day working week.

(2) (a) To all employees the value of the vacation leave with which they are credited shall be paid out to them when they leave the service for any reason whatever to the maximum provided in subregulation (1). If an employee dies the value of such vacation leave standing to his credit shall be paid out to his widow or, if there is no widow, in equal parts to his children or, if there is no widow or children, to his estate.

(b) The calculation of the amount payable in accordance with subregulation (2)(a) shall be according to the following formula -

$\frac{a \times b}{250}$ where the employee works a five-day working week.

$\frac{a \times b}{300}$ where the employee works a six-day working week.

$\frac{a \times b}{350}$ where the employee works a seven-day working week.

In the above formula -

a = the number of days vacation leave standing to the employee's credit on the date of his death or the date on which he leaves the service; and

b = the annual salary received by an employee on the date of his death or the date on which he leaves the services.

[subregulation (2)(b) amended by GN 38/1971]

(c) In paragraph (a) "child" shall mean a legitimate child of an employee, including any child born after the death of such employee, a step-child, an illegitimate child or an adopted child which is unmarried or under the age of 18 years; or which is full-time at school, college or university, or which receives other full-time training approved by the council and is unmarried.

[subregulation (2)(c) amended by GN 162/1971]

(3) At the commencement of these regulations vacation leave standing to the credit of an employee, in cases where Saturdays, Sundays and public holidays were included in his leave period under the employee's former conditions of service, shall be converted into working days (leaving fractions of a day out of account) by means of the following formula -

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$a - \frac{a}{7} \times 2$ the employee works five days a week;

$a - \frac{a}{7}$ where the employee works six days a week.

In this formula a is the employee's vacation leave credit under his former conditions of service on the day before the commencement of these regulations.

(4) When an employee is transferred from one leave group to another, or when the working times of an employee are changed so that he works more or fewer working days a working week he shall retain his existing leave credit as it was on the day before his transfer or change of working week -

Provided that -

- (a) Where an employee, because of a change in his working week, works more days a working week, his leave credit shall be calculated according to the formula below (leaving fractions of a day out of account):

$a + \frac{a \times 5}{b}$ working days — where the employee works one working day a working week more;

$a + \frac{a \times 10}{b}$ working days — where the employee works two working day a working week more;

For the purpose of this formula—

- a = the employee's leave credit on the day before the change in his working week, and
b = the number of working days to which the employee was entitled annually before the change in his working week;

[subregulation (4)(a) amended by GN 10/1970]

(b) where an employee, because of a change in his working week, works fewer days a working week his leave credit shall be calculated according to the following formula (leaving fractions of a day out of account) as from the date of the change in his working week -

$a - \frac{a}{7} \times 2$ where the employee works two days a week less;

$a - \frac{a}{6} \times 1$ where the employee works one day a week less.

In this formula a equals the employee's leave credit on the day before the change in his working week.

(5) An employee who is granted vacation leave for a period of at least 14 consecutive days may be paid salary or wages in advance in respect of the period for which vacation leave is granted to him, on the day before his leave begins.

(6) If an employee resigns or leaves the service before his vacation leave accrues he shall repay to the council all the wages, allowances, etc., which he has received in respect of leave with full pay and which have been granted to him in advance under this regulation.

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19. The council may, where an employee has more than 45 working days vacation leave to his credit, require such employee to take at least 21 working days leave, during the period to be determined by the council.

20. If these regulations result in an employee having fewer vacation leave privileges than under the former conditions of service, such employee shall retain his leave privileges under the former conditions of service as a personal privilege.

Sick Leave

21. Sick leave shall be granted as set out below -

- (1) (a) All employees may be granted sick leave at 120 days on full pay and 120 days on half pay within a cycle of three years which, subject to the provisions of subregulation (9), shall be calculated from the date of beginning of such employee's continuous service.

[subregulation (1)(a) amended by GN 10/1970]

- (b) Sick leave accrues to an employee on the first day of a cycle and as from that day the full complement for the cycle concerned may be granted to him: Provided that to no employee sick leave on full or half pay may be granted before he has completed thirty days service which shall count as service for leave purposes, and then only in respect of absences after completion of such service.

[subregulation (1)(b) substituted by GN 162/1971]

- (c) Every employee is credited at the end of the cycle determined in subparagraph (a) with the following sick leave (hereinafter called cumulative sick leave) -

- (i) one day sick leave at full pay for every full eight days sick leave at full pay then to his credit;
- (ii) one day sick leave at half pay for every full eight days sick leave at half pay then to his credit:

Provided that -

- (i) cumulative sick leave shall not lapse at the end of the ensuing cycles;
- (ii) cumulative sick leave with full pay shall not be taken before all ordinary sick leave with full pay to the credit of the employee concerned in the particular cycle has been utilised in full by him and cumulative sick leave with half pay shall not be taken before all ordinary sick leave with half pay to the credit of the employee concerned in the particular cycle has been utilised in full by him.

[subregulation (1)(c) substituted by GN 162/1971 and GN 30/1981]

- (2) (a) Sick leave shall be granted only in connection with an employee's absence from service on account of an illness, indisposition or injury not due to his misconduct or lack of proper precaution.

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- (b) In connection with nervous complaints, sleeplessness infirmity and similar less well-defined illnesses or indispositions sick leave shall be granted only if the council is satisfied that the applicant's state of health -
- (i) makes him unfit for his work; and
 - (ii) does not arise from his default in making use of vacation leave.
- (c) If an employee is absent from duty on account of illness for a continuous period of more than three days, sick leave may be granted to him only if he submits a certificate from a medical practitioner or a dental practitioner in which the nature of the illness is clearly defined and in which it is declared that such employee is unable to perform his duties of office and which also indicates what period is necessary for his recovery (hereinafter called a certificate of indisposition).
- (d) The council may in its discretion require the submission of a certificate of indisposition also in respect of periods of three days or less.
- (e) Notwithstanding any provisions to the contrary the council may, if it is satisfied that the employee's absence was *bona fide* due to illness and that good reasons exist why a certificate of indisposition was not submitted, exempt such employee from the submission of such certificate in respect of a continuous period of sick leave of not more than 14 days.
- (f) Sick leave with or without payment in respect of which a certificate of indisposition was not submitted may be granted only for altogether 10 days during any year ending on 31 December and any further absences shall be covered by the granting of vacation leave or, if the employee has no vacation leave to his credit, vacation leave without pay. The provisions of this subregulation shall not apply to periods of absence in respect of which exemption under paragraph (e) of this subregulation is granted and such periods shall not be included in the calculation of the 10 days.

[subregulation (2)(f) amended by GN 10/1970]

- (3) The council may at any time compel any applicant for sick leave to subject himself to examination by a medical practitioner or dental practitioner appointed by the council. If the certificate from such medical practitioner or the dental practitioner differs from the certificate of indisposition accompanying the application, the council may curtail or refuse to grant such sick leave or, if the sick leave has already been granted, curtail or cancel such sick leave according to the certificate of such medical practitioner or dental practitioner.
- (4) If an employee to whom vacation leave is granted, becomes indisposed after his vacation leave has begun, that portion of his vacation leave during which he is indisposed may be converted into sick leave if -
- (a) the employee submits a certificate of indisposition in which a medical practitioner or a dental practitioner certifies that the applicant has to stay in bed during the period for which sick leave is applied; and

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- (b) the necessary sick leave is available.
- (5) An employee to whom sick leave is granted on half pay or without pay and who has the necessary vacation leave to his credit may choose whether he wishes to take vacation leave in place of sick leave on half pay or without pay.
- (6) Any period of absence on account of illness whether on full pay or half pay shall in all respects be deemed to be service.

[subregulation (6) substituted by GN 162/1971]

- (7) In granting sick leave the period of absence shall be calculated from the first working day on which the employee is absent from work until and including the working day preceding the working day on which he assumes duty and shall include Saturdays, Sundays and public holidays falling within that period.
- (8) Nothing contained in these regulations shall preclude an employee from leaving the service on the grounds of ill-health before the maximum or any period of sick leave has been granted.
- (9) At the commencement of these regulations every employee who is then in service, shall retain his existing sick leave cycle of three years under the former conditions of service if applicable, and his sick leave credit for the cycle concerned shall be the number of days referred to in subregulation (1) minus the number of days sick leave which he has taken during the cycle concerned: Provided that where an employee was not entitled to sick leave on the basis of any particular number of days during a cycle of three years, a cycle of three years shall be determined with due allowance for the date of beginning of his continuous service and his sick leave credit shall be calculated by the deduction of the number of days of sick leave actually taken during the cycle determined as aforementioned from the number of days referred to in subregulation (1): Provided further that if the effect of the foregoing provisions is that an employee would receive less sick leave than under his former conditions of service, he shall retain his sick leave benefits under his former conditions of service.

Bonus Leave

22. The council may grant an employee bonus leave after completion of such period of continuous service and with due allowance for such circumstances as it may deem fit: Provided that -

- (a) bonus leave shall not be granted before an employee has completed at least five years of continuous service (leave without pay excluded) with the council concerned;
- (b) not more than 90 days bonus leave for the first five years continuous service and thereafter 18 days for every completed year of continuous service (leave without pay excluded) shall accrue to any employee;
- (c) bonus leave shall not accrue in respect of periods in which leave without pay is taken;
- (d) the council may in granting bonus leave take into account a period of continuous service of not more than five years before the commencement of these regulations (leave without pay excluded) where employees were not entitled to bonus leave under the former conditions of service;

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- (e) the council may, instead of granting bonus leave, pay an employee in respect of the first five years and thereafter annually, a cash amount to be determined by decision of the council and which shall not be more than one day's pensionable salary and allowances of the employee concerned on the day of payment for every day of bonus leave to the credit of the employee;
- (f) bonus leave not taken or paid out may accumulate unless the council determines otherwise or limits the accumulation thereof;
- (g) bonus leave which has accumulated under the former conditions of service shall be deemed to have accumulated in accordance with these regulations.
- (h) (i) If an employee dies, the value of all bonus leave due to his credit is paid to his widow; or, if there is no widow, in equal shares to his children; or, if there is no widow or children, into his estate;
- (ii) In this paragraph "child" has the same meaning as given thereto in regulation 18(2)(c)

[Regulation 22(h) inserted by GN 10/1970; The full stop is missing after "18(2)(c)".]

Special Leave

23. (1) Special leave on full pay may be granted to an employee for the following purposes and subject to the following conditions -

- (a) As a delegate or representative or participant in order to attend meetings, conferences or sports gatherings, recognised by the council, "Representative" shall here include the manager, vice-manager or trainer of a sports team;

[The word "as" should not be capitalised.]

- (b) for the purpose of isolation under a medical direction in the interests of public health where the employee was in contact with any person suffering from an infectious or contagious disease or stayed in an area where any person suffered from an infectious or contagious disease. A medical certificate from a medical practitioner shall accompany the application for special leave;
- (c) leave instead of overtime remuneration - Subject to the provisions of any other law the council may grant an employee special leave with pay instead of compensation for overtime work;
- (d) **MILITARY LEAVE** -
 - (i) Leave to perform military service - The employee concerned shall, during such absence, be paid the difference between his military pay and the normal remuneration which he receives from the council, and he shall retain the benefits of accumulated leave: Provided that the council may decide to pay such employee his full salary or wages in addition to any military pay he may receive during such absence.

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(ii) Compulsory military training - Special leave shall be granted to an employee for such periods as may be required for compulsory military training under official directions issued from time to time by the Defence Force, and such employee shall receive the difference between his military pay and the normal remuneration received by him from the council, provided he duly completes an undertaking contained in Schedule A In respect of his initial period of compulsory military service under the Citizen Force Regulations.

(iii) Non-compulsory military training, that is, training not referred to in (ii) -

Where the council grants leave for military training which is not compulsory training, it may grant special leave for the period of absence for such training at such remuneration and subject to such conditions as the council may determine.

(e) CASUALTIES -

If an employee is unable to perform his duties on account of an accident to which the provisions of the Workmen's Compensation Act, 1941 (Act 30 of 1941) are in any way applicable, or which is covered by the council's insurance policy in respect of employees who are not workmen within the meaning of the Workmen's Compensation Act, such employee shall, notwithstanding anything contained in the latter's contract of service with the council, be granted special leave on full pay for the period during which he is unable to perform his duties: Provided that no employee shall during such period of unfitness be entitled to join payment by the council, the Workmen's Compensation Commissioner and the council's insurance company which would result in his total income for such period exceeding the amount of the salary which he normally receives from the council;

(f) WITNESSES IN COURT CASES AND ACTIONS -

Every employee who receives a summons as witness or any other order to attend a sitting of the court or who has to attend a sitting of the court or a meeting of an investigation body or board to give evidence or submit documents on behalf of the council or otherwise in connection with his official duties, shall attend the court or meeting in the course of and as part of his duties and shall receive therefor his normal remuneration as also a subsistence allowance as prescribed in regulation 31. All witness and other fees which he may receive, shall be repaid by him to the council.

(g) REASONS OF HUMANITY -

If absence from duty is necessitated on account of the serious illness or death of any person other than the employee and the employee has no vacation leave to his credit which he can take for the purpose, the authority designated under regulation 25 (1) shall consider the circumstances and may grant him special leave which shall be considered unpaid leave.

[subregulation (1)(g) amended by GN 162/1971]

(h) STUDY LEAVE -

(i) Study leave on full pay shall be granted as follows in order to enable employees to study for and write examinations approved by the council -

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- (a) One working day for every working day on which examinations are held; plus
- (b) two additional working days, not being the days on which examinations are held, for every subject or part thereof in which examinations are held.

[subregulation (1)(h)(i)(b) substituted by GN 162/1971]

- (ii) The study leave referred to in (i) (b) shall not be taken earlier than sixty days before the day on which the examinations, in respect of which it has been granted, are held.
- (iii) Study leave may be granted only twice in respect of the same subject or year.

OTHER SPECIAL PURPOSES -

- (2) (i) Special leave with or without pay may be granted to employees under the following circumstances: Provided that where leave without pay is taken by any employee his salary increase date and the date on which his leave bonus is payable shall be extended by the same number of days and that leave without pay shall not be deemed to be service for the calculation of an employee's leave credit -
 - (a) Without pay if an employee has no vacation leave to his credit and the council is satisfied that extraordinary circumstances exist which justify the granting of leave;
 - (b) an employee who has been granted the maximum period of sick leave to which he is entitled and who, after expiry thereof, is on account of ill-health still unfit to perform his duties efficiently, may be granted a further period of leave without pay in the discretion of the council and on production of a satisfactory certificate of indisposition to the effect that further leave is essential;
 - (c) with or without pay in the discretion of the council for any special purpose which may be approved by the council.
- (ii) An application for special leave shall be supported by such certificate or proof as will satisfy the council that the leave applied for is in accordance with the provisions of this paragraph.

General Provisions in Respect of Leave of Absence

24. (1) All leave owing, leave granted and leave used shall be recorded in a leave register which shall be kept for the purpose. Such register shall at all reasonable times during office hours be available for inspection by any employee. All leave owing shall at the completion of every year of service rendered by the employee, be recorded in the leave register.

(2) When an employee has by oversight but in good faith been granted more leave than is due to him under these regulations and such leave is used by him, such over-grant of leave may, with the council's approval be deducted from leave subsequently earned by such employee.

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(3) An employee who is absent on approved leave, shall not return to duty voluntarily before the full period of such leave has expired or unless he has beforehand obtained permission thereto from the head of the department concerned or, in the case of the head of a department, has obtained permission thereto from the town clerk or mayor and, in the case of a town clerk, has obtained permission thereto from the mayor.

(4) Leave, with the exception of sick leave, granted to an employee, may at any time be withdrawn if the exigencies of the service require it: Provided that when an employee is recalled from his leave, he shall be credited with the unexpired part of his leave in the leave register, and the council shall bear all reasonable additional expenses incurred by the employee, which, in the opinion of the council, had to be incurred because of his recall.

25. (1) Applications for leave under these regulations shall be approved by the authority designated by the council and any reference to the council in this chapter may in the discretion of the council be deemed to be a reference to such authority.

(2) Application for leave shall be made on a form prescribed by the council. Before the authority approving leave considers such leave, the responsible employee shall certify that the leave applied for is available.

(3) Immediately after an application for leave has been approved, the application shall be forwarded to the responsible officer who shall ensure that the necessary entry is made in the leave registers and that the application is filed for record purposes.

26. Subject to the provisions of any law the council may, if it is of the opinion that the exigencies of the service are such that an employee cannot be granted the leave standing to his credit, refuse such leave: Provided that, if the council has transferred this power to a lower authority, the employee shall have the right to appeal to the council through the town clerk.

27. Where leave, which under these regulations has been granted for any particular purpose, is in the opinion of the council being abused, it may forthwith be withdrawn and the council may write off any leave already taken against accumulated vacation leave or bonus leave or against such vacation leave or bonus leave as may still accumulate.

28. (1) Every employee who institutes or defends a court case shall use his vacation leave for the purpose or, if he has no leave to his credit, take leave without pay.

[Subregulation (1) amended by GN 10 of 1970]

(2) Every employee receiving a summons as witness or any other order to attend a court sitting, shall notify the head of his department thereof immediately, in order that where necessary arrangements may be made for the performance of his duties while he attends the court sitting.

29. Unless otherwise stated all periods of leave shall be calculated from and including the first working day on which the employee is away on leave until and including the working day before the working day on which he again assumes duty.

CHAPTER VI**Allowances**

30. *Repayment of transport costs -*

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(1) (a) Subject to subregulation (3) the council may pay an employee who has been recruited in the Republic of South Africa or in South West Africa but outside the municipal area concerned and, the following moneys after assumption of duty -

(i) Transport costs to a maximum amount equal to the price of a first class train ticket for the employee concerned and his dependants, from the railway station or railway bus halt nearest to the employee's former place of residence to the railway station or railway bus halt nearest to the municipality;

[subregulation (1)(a)(i) amended by GN 162/1971]

(ii) transport costs incurred by the employee in bringing his personal effects to the municipal area but limited to a maximum amount equal to the railway tariff calculated at the domestic removal tariff in respect of a weight of 14,000 lbs., also calculated from the railway station or railway bus halt nearest to the employee's former place of residence to the railway, station or railway bus halt nearest to the municipality;

(iii) a subsistence allowance of R5.00 a day of 24 hours or 20c an hour for any period less than 24 hours in respect of the employee himself and every dependent person older than twelve years, from the time of departure to the time of arrival in the municipality. For dependent children under twelve years the allowance shall be R2.50 a day of 24 hours or 10c an hour for any period less than 24 hours;

[subregulation (1)(a)(iii) amended by GN 162/1971]

(iv) if such employee makes use of any other means of transport for the transport of his personal belongings into the municipal area, he shall be repaid at a tariff approved by the council.

[subregulation(1)(a)(iv) added by GN 162/1971]

[subregulation (1)(a) amended by GN 162/1971]

(2) The council may by way of a special agreement pay an employee recruited from outside the Republic of South Africa and South West Africa the following -

(a) The actual travelling costs of the employee, his wife and his dependent children from the place where he resided to the municipal area;

(b) subsistence allowance of R5.00 a day or *pro rata* for portions of a day for the employee, his wife and his dependent children above 12 years of age from the time of his departure to the time of arrival in the municipal area. For children under the age of twelve years the allowance shall be R2.50 a day or *pro rata* for portions of a day;

(c) the transport costs in respect of his personal effects from his former place of residence or from South Africa or South West Africa's borders, as the case may be, according to the basis provided in regulation 30(1)(a)(ii).

[subregulation (2)(c) amended by GN 10/1970]

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- (3) The council may come to an agreement with an employee to pay the transport costs and allowances referred to in subregulations (1) and (2) on asumption of duty or some time thereafter and that a portion of or the whole amount may be reclaimed if the employee should leave the council's service within a certain time.
- (4) Every application for transport costs and allowances under subregulation (1) or (2) shall be submitted in writing and shall be supported to the satisfaction of the council.

Allowances during Absence on the Council's Business

31. (1) The council shall pay to employees whom it directs to travel on official business or allows to attend conferences -

- (a) in cases where the period of absence is longer than 24 hours, an allowance of R24,00 a day and R1,00 an hour for any period less than 24 hours, from the time of their departure from the municipality concerned to the time of their return, excluding any time which they spend specifically on their private affairs;

**[subregulation (1)(a) amended by GN 162/1971; GN 225/1973;
GN 128/1977 and GN 128 of 1980]**

- (b) In cases where any allowance appears to be inadequate, the amounts actually and reasonably spent during their absence; and

**[subregulation (1)(b) amended by GN 162/1971;
The word "In" should not be capitalised.]**

- (c) in cases of absence outside the Territory of South West Africa or the borders of the Republic of South Africa the allowances approved by the council: Provided that allowances payable by municipalities mentioned in Part II of the Fifth Schedule of the ordinance shall be approved by the Administrator and allowances payable by municipalities mentioned in Part I of the Fifth Schedule of the ordinance shall be provided for in the annual estimates.

[subregulation (1)(c) added by GN 162 of 1971]

(2) The council shall pay the transport costs including rail costs, air transport costs, insurance and the allowance for the use of private transport as the council may determine: Provided that if an employee has spent more than the total amount of the allowances payable to him under this regulation, for subsistence costs, taxi fees and other expenses, which the council deems reasonable, the council may, in its discretion, compensate the employee therefor on the submission of satisfactory proof of his expenses, instead of paying him an allowance under this regulation.

Allowances for use of Private Motor Car

32. (1) An employee who has to use his private motor car with the approval of the council in the course of his duties within the municipal area shall be paid a transport allowance for the period in which he actually uses such vehicle in the service of the council, according to the following scale -

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Engine swept volume	In respect of vehicles registering in kilometres at cents per kilometre	In respect of vehicles registering in miles at cents per mile
Up to and including 750cm ³	5,0	8,0
751 to 1550cm ³	5,6	9,0
1551 to 2500cm ³	6,7	10,8
2501 to 3500cm ³	7,9	12,6
3501 to 5000cm ³	8,8	13,9
above 5000cm ³	11,2	17,9

[Subregulation (1) amended by GN 162/1971]

(2) Notwithstanding the provisions of subregulation (1) the council may by resolution determine that a fixed monthly amount or allowances, shall be paid to an employee who uses his private motor car in the municipal area in the performance of his duties.

[subregulation (2) amended by GN 162/1971]

Acting Allowance and Allowances in Connection with Additional Duties

33. (1) When an employee acts in a higher post the council may pay such employee in its discretion an acting allowance: Provided that such acting allowance shall not exceed the difference between the minimum salary attached to such employee's own post and the minimum salary attached to the post in which he acts.

(2) The council may pay allowances in respect of additional duties performed for any reason by employees: Provided that allowances payable by municipalities mentioned in Part II of the fifth schedule of the ordinance shall be approved by the Administrator and allowances payable by municipalities mentioned in Part I of the fifth schedule of the ordinance shall be provided in the annual estimates: Provided further that payment for additional duties performed in a previous financial year may be approved or provided for in a later financial year and paid out in the last-mentioned financial year.

(3) Subject to subregulation (2) and unless the council comes to some other agreement with the employee, no employee shall have any claim to any remuneration in respect of additional duties performed by him for any reason whatsoever.

Vacation Bonus

34. If the council has not instituted bonus leave for its employees under regulation 22, it may annually on a date determined by resolution of the council make to every employee who has completed at least one year of continuous service the following payment -

- (1) To every male employee a vacation bonus calculated on the following basis -
 - (a) Not more than R45 in respect of himself;
 - (b) not more than R25 in respect of his wife;

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- (c) not more than R12 in respect of every dependant child not older than 16 years;
- (2) to every female employee whose husband is not in the service of the council a vacation bonus of not more than R45: Provided that in cases where a female employee is the only breadwinner of her family, she may receive the same leave bonus as a male employee with the exception of paragraph (b) above.

CHAPTER VII

General Provisions

35. (1) No employee shall use, or permit the use of, or order any subordinate employee to use, any vehicle, tool, implement or any goods or materials whatsoever which are the property of the council, for any purpose except in the service of the council: Provided that the council may allow an employee to transport his family on approved trips if the council is properly indemnified against claims.

(2) No employee shall remove, or permit the removal of, or order any subordinate employee to remove, any vehicle, tool, implement or any goods or materials whatsoever, which are the property of the council, except for the purpose of using it elsewhere in the service of the council or of taking it to an approved place of storage belonging to or under the control of the council for the purpose of storing it.

36. No employee shall permit any other employee to do any work during his normal working hours or during times for which such employee is paid overtime, if such work is not connected with the service.

37. No employee shall wilfully or negligently destroy, or damage or permit the destruction or damage of any vehicle, tool or implement or any property of the council.

38. (1) If the council is of the opinion that it is necessary for any employee to use a motor vehicle in the performance of his duties the council may make a vehicle which is the property of the council available to such employee for use in the service. The employee shall be obliged to drive such vehicle if he has the necessary licence and shall not be entitled to any compensation in addition to his normal remuneration for driving the vehicle. The town clerk may, if he deems it necessary, require an employee to keep proper record of all trips taken with the vehicle in the form and manner prescribed by the town clerk in a book to be known as a logbook.

(2) Any employee who is required to keep a logbook for any purpose whatsoever and who fails to do so or who makes any false entry therein, shall be guilty of a contravention of these regulations.

39. (1) In addition to the wearing of protective clothing as provided in the Factories, Machinery and Building Work Ordinance, 1952 (Ordinance 34 of 1952) -

- (a) the council may provide such protective clothing or uniforms as it may deem necessary to employees or may pay an allowance to employees who under a resolution of the council shall wear protective clothing or uniforms and who shall provide such protective clothing or uniforms themselves.

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- (b) Every employee who is ordered to use protective clothing or uniforms shall wear such protective clothing or uniforms when necessary or when the council orders the wearing thereof.
- (c) The head of the department concerned shall ensure that the protective clothing or uniforms whether provided by the council or by any employee, shall at all times, according to circumstances, offer sufficient protection to such employee, and to carry this provision into effect the head of the department concerned shall be entitled, if an employee who receives an allowance to provide protective clothing or uniforms himself, fails to maintain such protective clothing or uniforms to the satisfaction of the head concerned, to purchase such protective clothing or uniforms on behalf of such employee and to withhold his allowance until the cost thereof has been redeemed.

(2) Protective clothing or uniforms shall remain the property of the council except where the employee pays therefor himself, but the council may, as a concession, allow the employee to keep his protective clothing or uniform when he retires. In other cases protective clothing or uniforms shall be handed in to the head of the department concerned on receipt of new protective clothing or uniforms or when the employee leaves the service.

(3) An employee who has been provided with uniforms and identification marks shall, when he is on duty, appear in a neat, clean and complete uniform with identification marks properly displayed.

(4) For the purposes of this regulation the expression “protective clothing” shall include all prescribed clothing such as overalls, protective shoes, uniforms, crash-helmets, Identification marks, welding shields, gloves, belts and any other similar clothing or equipment or identification marks which may from time to time either by legislation or by resolution of the council be prescribed.

40. (1) An employee shall not claim or accept any commission, money or compensation, whether monetary or otherwise (not being his remuneration, allowance or other moneys payable to him by the council) in respect of the performance of his work. An employee shall forthwith inform his immediate head of any offer of such commission, money or compensation.

(2) Any moneys or payment received by an employee by reason of his having acted in any capacity on behalf of the council or in respect of any service rendered during working hours shall be paid into council’s revenue.

41. An employee shall not change his fixed hours of service or exchange service with any other employee without the permission of the head of his department.

42. Heads of departments shall keep attendance registers of every class of employee as the council may determine and every employee in any such class shall sign the register concerned when he comes on duty or goes off duty.

43. Except in the performance of their official duties employees shall not participate actively in the election of councillors, whether by public speech or in writing, or be a member of any committee which has as its purpose the promotion or prevention of the election to the council of any particular candidate.

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44. (1) All remuneration and other amounts owing and payable to employees shall be paid on such days and in such manner as may from time to time be decided by the council, but at least once a month: Provided that if any employee leaves the service of the council all wages, salaries or other moneys earned by him up to the date on which he leaves the service of the council less any deductions authorised by these regulations shall be paid to him immediately or as soon as possible after the return of protective clothing, uniforms, tools and equipment. An explanation of the calculation of any amount paid to an employee shall be given to the employee at his request.

(2) The council may, if any employee agrees thereto in writing, deduct from the employee's remuneration such monthly amounts as may be owing by the employee to the council, including amounts in respect of the council's premises, goods or services provided by the council, any instalment or instalments on a loan taken up with the council, or any subscription payable to the pension fund or a medical aid society or fund, and the council shall have the authority and shall be obliged to pay on behalf of the employee such subscriptions and amounts owing to the parties concerned.

45. (1) Subject to the provisions of any law and the provisions of regulation 44 an employee shall not without the written permission of the council cede, transfer or assign his right or claim in respect of any wages or salary or moneys due to him by the council or which may become due to him by the council. The council shall not pay any amount owing by it to an employee to any person except such employee, unless such person submits a proper power of attorney from the employee or unless the council is legally compelled thereto.

[The word "permission" is misspelt in the *Official Gazette*, as reproduced above.]

(2) An employee shall not borrow money from a subordinate employee or from any person outside the service whose activities or contracts he has to supervise, or request such person to stand surety for him.

46. (1) Any employee, except the town clerk or the head of a department, who has any grievance or complaint arising from his service, shall submit his case in writing to the head of his department and such head of his department may take such steps as he deems desirable and immediately notify the employee in writing of his decision. If such employee is not satisfied with the decision of the head of his department, he may request that the case be submitted to the management committee through the town clerk and if the head of the department refuses to do so, such employee may address a letter direct to the town clerk and ask that his case be submitted to the council.

(2) Any head of a department who has any grievance or complaint arising from his service may submit his case to the management committee through the town clerk and a town clerk who has a similar grievance or complaint may submit his case direct to the management committee. If such head of a department or town clerk is not satisfied with the decision of the management committee, such head of a department may submit his case to the council through the town clerk and such town clerk may submit his case to the council.

(3) An employee shall not make any representations to a councillor or other person on any matter concerning him in his capacity as employee except as provided in subregulations (1) and (2): Provided that an employee may make representations to any lawful staff association of which he is a recognised member.

[subregulation (3) amended by GN 162/1971]

Misconduct

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- 47.** Any employee who, subject to the provisions of section 148(6) of the ordinance -
- (1) does not obey any lawful order given to him by any person authorised thereto; or
 - (2) is negligent in the performance of his duties; or
 - (3) allows or orders any person subordinate to him to do any work not connected with the service; or
 - (4) because of any reason within his own control is or becomes unfit or incompetent to fulfil his duties; or
 - (5) without the permission of the council speaks at any public meeting on subjects relating to the policy, activities or management of the council or contributes to newspapers or other similar publications, including interviews for publication, in connection with the policy, activities or management of the council; or
 - (6) is guilty of scandalous, improper or unseemly conduct, whether in the performance of his duties or in public; or in the performance of his duties exhibits gross incivility towards another employee or a member of the public; or
 - (7) is under the influence of alcohol or drugs when on duty, or when he reports or has to report for duty, or who repeatedly uses intoxicating liquor or drugs so that he cannot fulfil the duties assigned to him in a capable and proper manner; or
 - (8) becomes insolvent or whose estate is placed under administration, unless he can prove to the satisfaction of the council concerned that it was caused by unavoidable circumstances; or
 - (9) makes known information gained by him in the course of his duties, otherwise than in the performance of such duties; or
 - (10) misuses information gained or obtained by him in the course of his post with the council, whether or not he makes known such information; or
 - (11) misuses or makes improper use of property or funds of the council under circumstances which render it a criminal offence or not; or
 - (12) is found guilty of an offence and is sentenced to imprisonment without the option of a fine; or
 - (13) is found guilty of an offence of which dishonesty is an element; or
 - (14) during hours of duty leaves his office or place of work in connection with private matters without the permission of the town clerk or the head of a department; or
 - (15) except in the case of illness is absent from his work without approved leave or exceeds the period of his authorised leave without the permission of the town clerk or the head of a department; or
 - (16) often comes on duty later than the prescribed time and leaves the service earlier than the prescribed time; or

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- (17) wilfully makes an incorrect or false statement whether for the attainment of some privilege or benefit in connection with his office or for any reason whatever; or
- (18) refuses to answer satisfactorily questions lawfully put to him by the town clerk or the head of a department or any authorised employee of the council in connection with an alleged contravention of these regulations; or
- (19) fails or refuses to use protective clothing made available by the council; or
- (20) contravenes any provision of these regulations; or
- (21) contravenes any provision of the council’s financial or tender regulations;

my be charged with misconduct and action may be taken against him as provided herein but subject to the provisions of the ordinance.

Investigations into Charges of Misconduct

48. (1) Subject to the provisions of section 148(10)(a) of the ordinance, in any charge of misconduct, an employee shall be formally charged or a formal charge shall be served on him in which a reasonable period, named in the charge, shall be afforded such employee to send or deliver to the town clerk or mayor as the case may be a written admission or denial of the charge.

(2) All investigations into charges of misconduct shall be made in accordance with section 148(10) of the ordinance.

(3) When an employee is found guilty of misconduct and he is not dismissed the council, in the case of a town clerk or head of a department, or the management committee in the case of other employees shall act in accordance with section 148(8) of the ordinance.

(4) An employee who is acquitted of a criminal charge shall not thereby be exempted from any steps which may be taken under these regulations.

Suspension

49. If an employee was suspended under section 148 (9) of the ordinance and after his conviction of misconduct received no salary for the period of his suspension, his incremental date shall be extended by a number of days equal to the number of full days of the period of his suspension without payment and the period of suspension shall also not be deemed to be service in the calculation of his sick, vacation, or bonus leave credit.

SCHEDULE A

UNDERTAKING

WHEREAS I, the undersigned
an officer/employee in the service of the Municipality of
have been allotted to the Citizen Force for purposes of compulsory military service;

AND WHEREAS I have been notified by the military authorities to render my initial period of compulsory military service from the 19.....
to the 19..... for which purpose I require leave from the said Municipality.

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AND WHEREAS the said Municipality is prepared to grant me leave for the said purpose and for the said period on the conditions mentioned hereinafter.

THEREFORE.

1.

I undertake:

- (a) Immediately after completion of my Initial period of compulsory military service, to return to the service of the said Municipality and to serve the Municipality in the capacity for which I was appointed or may thereafter be appointed by the Municipality for a continuous period equal to the period for which I was granted special leave, viz days.
- (b) Should I in any way fail to comply with this undertaking, and in particular (but not exclusively restricted thereto) should I fail to comply fully with paragraph 1 (a) above, irrespective of whether such failure be a result of my discharge by the Municipality on grounds of misconduct, except when it is as a result of my death or my permanent disablement to refund immediately on written demand the remuneration paid to me by the Municipality for and in respect of the period for which I was granted special leave, as well as the vacation savings bonus, if any, paid to me by the Municipality during the said period, together with interest thereon at the rate of 6% per year calculated from the date of breach of contract or discharge for any reason whatsoever.

2.

I acknowledge, accept and undertake to accept that the Town Clerk of the Municipality or his commissary is in his exclusive discretion entitled to decide if and when completion of my initial period of compulsory military training has taken place and I undertake to supply him with all information and documents he may require from me in this connection.

3.

I declare that I understand and accept that:

- (a) I can be granted special leave with remuneration of not more than the difference between my military pay and the normal remuneration which I receive from the Council, which I receive for and in respect of my initial period of compulsory military service in terms of the Citizen Force Regulations.
- (b) The period of special leave which I am granted, shall not count as service in fulfilment of a service obligation which may rest upon me in terms of a bursary loan, and training, study leave or any other similar undertaking.
- (c) Vacation and sick leave with full or part pay (excluding vacation leave which I may be granted for study purposes) shall count as service in fulfilment of my service obligation in terms of paragraph 1 (a) above and should I be granted leave of any other nature, or should I be absent from duty without permission, before I have met my service obligation in full, my service obligation will be extended by a number of days equal to the period (s) of such leave which I was granted and/or the period(s) that I was absent from duty without permission.
- (d) If and when my service obligation in terms of paragraph 1 (a) above is extended in terms of paragraph 3 (c) above, I will during the extended period in the same way be subject to this undertaking as if the extended period had originally been part of my service obligation in terms of paragraph 1 (a) above.
- (e) My service obligation in terms of paragraph 1 (a) above can be completed concurrently with one or more of any other service obligation(s) which may rest upon me in terms of a bursary loan, any training, study leave or any other similar undertaking.

Signed at this
..... day of 19.....
.....

Signature of officer or employee.

WITNESSES:

- 1.
- 2.

Assisted by (in the case of a minor)

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.....
Signature of parent or guardian.

WITNESSES:

1.
2.

[These regulations are reproduced as per the *Official Gazette*
with inconsistent use of capitalisation and punctuation.]