

LEGAL ASSISTANCE CENTRE

CONDITIONS OF EMPLOYMENT AND EMPLOYMENT POLICIES

1. **INTRODUCTION**

These Conditions of Employment and Employment Policies shall operate from 1 January 2013 and replace the existing Conditions of Service and Policies.

Management may amend these conditions by a memorandum to all staff members after consultation with them. Employees who continue in service thereafter will be deemed to have accepted the amended conditions.

2. **DEFINITIONS**

For the purpose of these conditions, the following definitions apply:-

- 2.1 "Director" shall mean the person appointed as such by the Trust or his or her delegate.
- 2.2 "Employee" shall mean any person in the full-time, part-time or hourly employ of the Centre who is paid a salary.
- 2.3 "Grade" means the categorisation of jobs according to grades using the Peromnes method.
- 2.4 "Manager" shall mean the person appointed as such.
- 2.5 "The Trust" shall mean the Legal Assistance Trust of Namibia as registered with the Master of the High Court, Trust number T157/11.
- 2.6 "CC" shall mean the Coordinating Committee, which consists of the coordinators of the Projects and Units within the Centre, the Financial

Manager, the Director, Manager and such other employees co-opted by the Director.

- 2.7 “Coordinator” shall mean the person appointed as such for the different units or projects within the LAC and who is responsibility for the coordination of such project or unit.

3. GENERAL

- 3.1 These conditions shall apply to all employees of the Centre save to the extent that the parties have agreed to vary or depart from them, in which case the variation shall be reduced to writing.
- 3.2 The provisions of the Labour Act (No 11 of 2007) shall apply to all contracts of employment entered into with the Centre save where these conditions of service expressly depart there from for the benefit of the employee.
- 3.3 Besides legal education, legal research, advocacy, lobbying and other activities, the Centre conducts a legal practice and gives legal advice to clients. All its employees are required to deal with their work and the work of their colleagues in a confidential manner. In particular, employees of the Centre that are directly dealing with clients are required to place their clients' interest foremost and to observe confidentiality in dealing with each client's affairs.
- 3.4 Employees who are not admitted legal practitioners may under no circumstances hold themselves out as such and may not provide legal advice. These employees may only impart information to assist clients.
- 3.5 All employees are required to be loyal to the Centre and to be prepared to work in other departments and with other employees to ensure that the Centre achieves its objectives in the most cost effective and efficient manner.

- 3.6 The work and duties of all employees are important for the smooth running of the Centre. All employees should be treated with the necessary respect and dignity by fellow employees.
- 3.7 All employees shall ensure that their political, religious, tribal or ethnic affiliation does not negatively affect their work or prejudice the individuals and communities that they are dealing with.
- 3.8 The Director is responsible for all press statements relating to the work and mission of the Centre. Employees are allowed to issue statements or comments regarding the particular cases or projects that they are dealing with or that fall within their remit of work. In all cases the employees shall inform the Director and / Coordinator and/or Manager in advance when such a statement or comment is issued or if this is not possible as soon as possible thereafter.

4. EMPLOYMENT

- 4.1 The following categories of employees will be engaged by the Centre:
- 4.1.1 Permanent (full time/part time);
- 4.1.2 Contract (full time/part time).
- 4.2 The Director will make all appointments of staff of the Centre. The trustees of the Trust shall appoint the Director after consultation with the CC members.

4.3 PERMANENT (FULL-TIME/PART-TIME) EMPLOYMENT

- 4.3.1 All permanent appointments of part-time and full-time employees will be subject to an initial three months' probationary period.
- 4.3.2 All permanent employees shall be entitled to annual leave and benefits as set out below.

4.4 CONTRACT EMPLOYMENT (FULL-TIME/PART-TIME)

4.4.1 A contract appointment will occur where an employee is appointed for a specified period of time or in relation to the occurrence of a specified event.

4.4.2 Contract appointments may be either full-time or part-time. At the time of entering into a contract, the conditions of service, including salary, leave and benefits shall be agreed upon and reduced to writing.

5. TERMINATION OF SERVICE

Any contract of employment may be summarily terminated by either party as provided for in law. In all other instances the contract may be terminated on notice as set out below. The services of employees shall be terminated for a valid and fair reason and in accordance with fair procedures.

5.1 During the period of probation, not less than one week's notice of termination of employment must be given by either party in writing.

5.2 The services of permanent employees in grades 1 to 9 may be terminated by two calendar months' written notice by either party to the other.

5.3 In the case of other employees one calendar month's written notice of intention to terminate may be given by either party to the other.

5.4 In the case of a retrenchment, the provisions of the Labour Act shall be adhered to in addition to the Centre's pre-retrenchment guidelines.

6. HOURS OF WORK

6.1 The minimum hours of work for a 5-day week for a full time employee are 8 hours per day, excluding meal-times with the proviso that the Director has the discretion to permit shorter working hours on a Friday.

6.2 FLEXIBLE TIME

The Director or Manager may allow employees to work flexible hours in circumstances where the services offered by the Centre will not be negatively impacted in any way. Record should be kept of the individual employee's flexible working hours in that employee's personnel file.

6.3 OVERTIME

6.3.1 Subject to 6.3.3 below, overtime means time worked in excess of the hours an employee ordinarily works in any ordinary working day; or work on Saturdays, Sundays and public holidays.

6.3.2 In the light of the competitive salary and benefits which employees receive and the professional responsibilities of certain employees, employees should be prepared to give freely of their time in certain circumstances. Pressure of work or the particular duties of an employee may require that more than the minimum number of hours per day may have to be worked.

6.3.3 The Centre adopts a flexible approach where employees are required to be away from the office for short periods for personal reasons and expects that employees will adopt the same flexibility where short periods of overtime are involved.

6.3.4 Only employees in grades 10-19 shall be eligible for payment of overtime worked. Employees in grades 1-9 acknowledge that, due to the demanding and responsible nature of their work, they are accorded certain additional financial and leave benefits as employees, in lieu of payment for overtime.

6.3.5 All employees shall be permitted to take time off work, equivalent to the period of overtime worked. A register for recording overtime hours worked shall be kept by the employee and should be filed with the personnel office at the end of each month.

- 6.3.6 Employees in grades 10-19 shall obtain approval in writing from their immediate supervisor before working paid overtime.
- 6.3.7 Where substantial periods of overtime are worked in grades 10-19 and an employee elects not to take time off, having obtained approval under clause 6.3.6 above, overtime rates are paid as follows:
- 6.3.7.1 Sundays at any time and public holidays double the normal hourly rate.
- 6.3.7.2 For work done at all other time outside the Centre's normal working day: one and a half times the normal hourly rate.
- 6.3.8 All claims for payment of overtime must be submitted within one month and approved in writing either by the Director or the Manager.

7. SALARIES AND INCREMENTS

- 7.1 The starting salary for each new permanent appointment shall be determined by using the Peromes scales and agreed to at the start of employment. Thereafter salaries are reviewed annually by the trustees, based on an employee's performance appraisal and the inflation rates.
- 7.2 An employee appointed within three months before the annual increment which occurs in April of any calendar year, will only be entitled to expect a review of salary in the year succeeding the one in which he / she is appointed. Such an employee is however entitled to an inflationary increase as determined by the trustees.
- 7.3 A general discretion resides with the Director to make adjustments to salaries where appropriate between annual reviews, provided that such adjustments shall not exceed the ceiling amount in a particular grading scale.

7.4 The salary to be paid to contract employees shall be fixed at the commencement of the contract and may be reviewed annually.

8. BENEFITS AND DEDUCTIONS

8.1 Save as may be otherwise agreed in writing, all permanent full-time employees of the Centre shall be required to belong to the Centre's schemes for pension, medical aid and similar benefits

8.2 The Centre will make such monthly deductions as it is required or authorised to make from the salary of each employee in respect of income tax and any other matters for which deductions are required or agreed to be made.

8.3 Any outstanding debt to the Centre shall be deducted from the employee's salary as soon as possible. The Director or Manager shall agree with the employee on the amount and frequency of deductions, provided that such deduction must not in aggregate exceed one third of the employee's remuneration. In the event of a disagreement on the amount and frequency the Director or Manager shall use his or her discretion, provided that it is applied fairly and consistently.

9. LEAVE

All applications for leave shall be made on a prescribed form. All applications for leave, except annual leave shall be supported by the required documents or a signed statement by the employee concerned.

9.1 ANNUAL LEAVE

9.1.1 Each permanent employee shall be entitled to 24 working days leave for each leave cycle. For purposes of calculating the leave cycle, the initial probationary period of three months will be included. Leave cycles shall run for a period of 12 consecutive months' employment immediately following the employee's commencement of employment or the completion of the last annual leave cycle.

- 9.1.2 Annual leave must be applied for in writing to the relevant Coordinator or the Director within a reasonable time in advance of the intended date of the commencement of the leave, and may only be taken subject to the requirements for the staffing of the office where the employee is employed as determined by the relevant Coordinator or the Director.
- 9.1.3 Permanent part-time employees who work less than five days a week, will be entitled to a *pro rata* proportion of a period of 24 working days leave.
- 9.1.4 The Centre closes between the working day preceding Christmas day and New Year's Day. These days will not be taken into account in calculating the leave taken by any employee.
- 9.1.5 Should an employee's employment terminate at a time when he or she has taken more leave than that to which he or she is entitled, then the Centre shall be entitled to recover from the employee the salary paid in respect of such excess leave, and shall be entitled to set-off against any payment that may be due to the employee the sum it is entitled to recover.
- 9.1.6 The Centre will only pay an employee the maximum of 30 days accrued annual leave upon resignation.

9.2 SICK LEAVE

- 9.2.1 Employees are entitled to sick leave, in accordance with the Labour Act, which amounts to 30 days sick leave on full pay during each period of 36 consecutive months for which the employee is employed: Provided that during the first twelve consecutive months of employment, an employee is entitled to one day sick leave for every 26 days worked.
- 9.2.2 If an employee is absent from work for more than two consecutive days, proof of sickness in the form of a medical certificate by a medical practitioner or any other evidence of proof of illness shall be produced

by the employee failing which the Centre is not required to pay the employee for such sick leave.

9.2.3 Should an employee become ill during the day while at work and have to leave work, that day will not be counted as sick leave.

9.2.4 Should an employee terminate his or her services having taken more sick leave than that to which he or she is entitled, the Centre may require that the salary paid to the employee in respect of such excess be repaid, which sum may be set off against any payment that may be due to the employee.

9.3 UNPAID LEAVE

Unpaid leave is not an entitlement which employees have as of right. The Director or Manager must approve applications for unpaid leave. A Trustee must approve applications by the Director for unpaid leave.

9.4 MATERNITY LEAVE

9.4.1 After six months of service, permanent employees are entitled to twelve weeks maternity leave on full pay, provided that the Centre shall only pay the difference between the employee's full salary and the amount paid by the Social Security Commission. If the employee has not yet been in service for six months, the Director shall have discretion to grant paid maternity leave after consultation with the CC.

9.4.2 Employees are entitled to maternity leave commencing four weeks before the expected date of confinement and eight weeks after the date of confinement, or any other arrangement as agreed to by the Director and/or Manager.

9.5 PATERNITY LEAVE

Permanent employees are entitled to two weeks' paternity leave (viz. 10 working days) per annum on full pay, after one year of service

provided that such leave may only be taken within the first three months after the birth of his child.

STUDY LEAVE

Employees are entitled to two days' leave per one examination paper, including the day on which the examination is written: provided that an employee is not entitled to extra days if two exams are written on the same day.

Employees registered for postgraduate studies which, as per the Director's discretion, are sufficiently aligned with the work of the Centre, are entitled to study leave of five days per annum.

9.6 COMPASSIONATE LEAVE

Employees may apply to the Director or Manager for a maximum of ten (10) working days compassionate leave per year in the event of serious illness or death in the family, as defined by the Labour Act 11 of 2007. The granting of such leave is entirely within the discretion of the Director or Manager and employees may be required to provide supporting documents for such leave. In respect of the Director, a Trustee has the corresponding discretion.

10. LONG SERVICE BENEFITS

For practical purposes a distinction is drawn between the long service benefits of employees in grades 1 - 9 and grades 10 - 19. Sabbatical must be taken as soon as possible after it has become due taking due consideration of the work demands of the particular employee.

10.1 EMPLOYEES IN GRADES 1-9

10.1.1 Employees in grades 1 to 9 who have been in the employment of the Centre for a continuous period of three (3) years are entitled in the fourth year of service to three (3) months sabbatical leave which shall

be computed in weeks. Any unpaid leave or sick leave taken in excess of the employee's entitlement will be deducted in calculating the three year period. A sabbatical period does not count towards calculating the next three year period, which shall be calculated from the date on which the employee resumes normal duties with the Centre.

10.1.2 If an employee is retrenched when a sabbatical has been earned but not taken, that employee will be entitled to one month's sabbatical leave in addition to any severance pay owed, such sabbatical leave to be utilized, alternatively paid out to the employee. This does not apply in the case of voluntary resignation.

10.1.3 Employees who attended any conference, study visit, educational or training course, workshop or seminar for 2 weeks or longer, may be liable to have this period or a lesser period deducted from their sabbatical leave.

10.1.4 Employees who become entitled to sabbatical leave shall inform the Director at least three months in advance as to the exact timing of such leave. The Director has the discretion to waive this requirement.

10.1.5 Employees are required to continue working for the Centre for a period of 12 months after their return from sabbatical leave. Failure to comply with this provision shall render the employee liable to refund the Centre for any salary and benefits paid to the employee during the sabbatical period.

10.1.6 Candidate legal practitioners who remain in the employ of the Centre after the expiry of their period of attachment:

10.1.6.1.1 shall be entitled to the benefit provided for in paragraph 10.2.2 below *pro rata* to their length of service.

10.1.6.1.2 on appointment to a position in grades 1 to 9, be regarded as a new employee for the purposes of

determining their length of service in respect of sabbatical leave.

10.2 EMPLOYEES IN GRADES 10-19

10.2.1 Where employees in grades 10 to 19, and employees in grades 1 to 9 who choose not to take sabbatical leave, have been in the employment of the Centre for a period of three years, and for each subsequent three year period thereafter recognition of long service will be made.

10.2.2 At the election of the employee entitled to it, he or she can choose:

10.2.2.1 to take 15 additional days of annual leave in the fourth year and subsequent fourth year terms; or

10.2.2.2 to commute this benefit into cash by working for the period concerned.

11. 13th Cheque

11.1 All permanent employees are entitled to a bonus (13th cheque) equal to their monthly salaries, which shall be paid in two equal payments in June and December respectively: provided that the trustees may cancel the payment of a 13th cheque where the Centre does not have sufficient funds available for this purpose. The trustees shall inform employees two months in advance of such a cancellation.

11.2 Bonus shall be paid on a *pro rata* basis irrespective of an employee's commencement date and or termination of services: provided that an employee that is employed for less than six months shall not receive a *pro rata* bonus on termination of service.

12. CONFERENCES, TRAVEL AND STUDY GRANTS

12.1 From time to time the Centre and employees are:

12.1.1 invited to attend conferences;

12.1.2 offered the opportunity of travel for their own educational purposes;

12.1.3 offered the opportunity to travel for purposes directly relevant to their work at the Centre.

The policy of the Centre is that such travels must be relevant to the work of the Centre, there should be a fair rotation of employees to attend such events, there must be limited disruption to the work and duties of employees and invitations should be dealt with in a transparent manner.

12.2 In cases where travel will result in an absence from work of more than 10 consecutive working days, the absence must be approved by the Director. Only in special circumstances will it be regarded as desirable for any employee of the Centre to be away from his or her regular duties for more than two weeks (including travelling time) in any one year on conference business.

12.3 The following guidelines will apply to conference invitations and offers of travel/study grants:

12.3.1 Where the invitation is to the Centre then the decision as to who should attend should be made by the Director, in consultation with the Co-ordinator concerned;

12.3.2 Where the invitation is extended to an individual, then where that employee would represent the Centre, the decision as to who should attend shall still require the consent of the Director;

12.3.3 Where attendance is as a representative of the Centre, such attendance shall not be regarded as leave;

12.3.4 Where attendance is in a private capacity such attendance will require the taking of leave. Where the theme of the conference etc. is closely tied up with the work of the Centre, the Director may grant permission to attend without the attendance being regarded as leave;

12.3.5 The Centre will only pay the travel or subsistence expenses for an employee in exceptional circumstances when the subject matter of the conference is sufficiently aligned to the work of the Centre.

13. STAFF LOANS and SALARY ADVANCES

13.1 An employee is not entitled as of right to a staff loan or salary advance.

13.2 An employee may only apply for a staff loan once or twice per year depending on the sum requested and it will only be granted on the written authority of the Director or Manager.

13.3 Loans may be granted up to a maximum of one month's salary once per year, alternatively up to a maximum of 50% of one month's salary twice per year and are to be repaid without interest, in instalments over a period of not more than 6 (six) months.

13.4 A salary advance may not be granted to an employee more than three times per year.

14. DISCIPLINARY CODE AND PROCEDURE-

The Disciplinary Code and Procedure is contained in Annexure "A".

15. GRIEVANCE PROCEDURE

The Grievance Procedure is contained in Annexure "B".

16. REDUNDANCY PROCEDURE

The Redundancy Procedure is contained in Annexure "C".

17. GENDER POLICY

The Gender Policy is contained in Annexure "D".

18. AFFIRMATIVE ACTION POLICY

The Affirmative Action Policy is contained in Annexure "E".

19. HIV/AIDS POLICY

The HIV/Aids Policy is contained in Annexure "F".

20. POLICY ON FLEXIBLE WORKING HOURS AND CONDITIONS

The Policy on Flexible Working Hours and Conditions is contained in Annexure "G".

21. POLICY ON FINANCIAL MANAGEMENT AND CONTROL

The Policy on Financial Control is contained in Annexure "H".

22. EXPENSE ALLOWANCES FOR TRAVEL & ACCOMMODATION

Expense allowances for Travel and Accommodation is contained in Annexure "I".

23. VEHICLE POLICY

The Vehicle Policy is contained in Annexure "J".

24. STAFF DEVELOPMENT POLICY

The Staff Development Policy is contained in Annexure "K".

25. PUBLICATIONS POLICY

The Publications Policy is contained in Annexure "L".

26. OPERATING GUIDELINES

The Operating guidelines describe the different structures of the Centre and their roles and responsibilities. It is contained in Annexure "M".

27. PRE-RETRENCHMENT GUIDELINES

The Pre-retrenchment guidelines are contained in Annexure "N".

**28. OPERATIONAL ACCOUNTING POLICIES AND PROCEDURES
MANUAL**

The Operational Accounting Policies and Procedures Manual are contained in Annexure “O”.

29. CHILD PROTECTION POLICY

The Child Protection Policy is contained in Annexure “P”.

30. PROCUREMENT OF GOODS AND SERVICES

The Policy on the Procurement of Goods and Services is contained in Annexure “Q”.

31. PRIVATE WORK POLICY

The Private Work Policy is contained in Annexure “R”.

32. ALCOHOL AND DRUG ABUSE POLICY

The Alcohol and Drug Abuse Policy is contained in Annexure “S”.