



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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WINDHOEK - 20 February 2013

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General Notice

MUNICIPALITY OF WINDHOEK

No. 32 2013

WINDHOEK MUNICIPAL POLICE SERVICE REGULATIONS: POLICE ACT, 1990

The Council of the Municipality of Windhoek, under section 42 of the Police Act, 1990 (Act No. 19 of 1990), read with regulations 2 and 10 of the Regulations for Municipal Police Services made under section 43C(2) of that Act and published under Government Notice No. 184 of 16 October 2002, has -

- (a) made the regulations set out in the Schedule; and
- (b) repealed the Windhoek Municipal Service Regulations published under Government Notice No. 296 of 1 December 2004,

with effect from 1 March 2013.

A.M. KAFULA
CHAIRPERSON
BY ORDER OF THE COUNCIL

Windhoek, 5 February 2012

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PART 1

INTRODUCTORY PROVISIONS

Definitions

1. In these regulations, unless the context otherwise indicates, a word or an expression defined in the Act, the Local Authorities Act, or the Regulations has the same meaning, and -

“Court”, in relation to labour matters, means the Labour Court referred to in section 115 of the Labour Act and the Supreme Court, and in all other matters a magistrate’s court or the High Court or the Supreme Court;

“annual leave cycle” means each period of 12 consecutive months for which a member is employed by the Council, computed from the day the member commenced his or her employment with the Council, but excludes any period of absence from work without pay or suspension and the anniversary date for calculation of any leave cycle is extended with the total number of days of such absence preceding all anniversary dates;

“authorized officer” means a member who has been appointed as an authorized officer under section 11 of the Road Traffic and Transport Act and registered in a category determined under regulation 2 of the Road Traffic and Transport Regulations published under Government Notice No. 53 of 30 March 2001;

“area of jurisdiction” means the municipal area of the Municipality of Windhoek;

“basic wage”, for the purpose of calculating any basic condition of employment, means that part of remuneration in money of a member, including the cash equivalent of payment in kind, if any, paid in respect of work done during the hours ordinarily worked, but does not include -

- (a) allowances, including travel and subsistence, housing, motor vehicle, transport, and professional allowances, whether or not based on the basic wage of the member;
- (b) a service allowance paid instead of payment for overtime worked, night time and standby allowances,
- (c) additional pay for work on a Sunday or a public holiday;
- (d) payments in respect of pension, annuity or medical benefits or insurance;

“board of inquiry” means a board of inquiry referred to in regulations 9, 19, or 22;

“City Police Chief”, means the person appointed as Head;

“City of Windhoek” means the Municipality of Windhoek;

“Council” means the Municipal Council for the Municipality of Windhoek, and where the context requires, the employer;

“Employees’ Compensation Act” means the Employees’ Compensation Act, 1941 (Act No. 30 of 1941);

“financial year” means the financial year of the Council referred to in section 82 of the Local Authorities Act;

“gratification”, includes -

- (a) money or any gift, loan, fee, reward, commission, valuable security or property or interest in property of any description, whether movable or immovable;
- (b) any office, dignity, employment, contract of employment or services and any agreement to give employment or render services in any capacity;
- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (d) any valuable consideration or benefit of any kind, any discount, commission, rebate, bonus, deduction or percentage;
- (e) any forbearance to demand any money or money’s worth or valuable thing;
- (f) any service or favour, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted, and including the exercise or the forbearance from the exercise of any right or any official power or duty;
- (g) any right or privilege;
- (h) any aid, vote, consent or influence, or any pretended aid, vote, consent or influence;
- (i) any offer, undertaking or promise, whether conditional or unconditional, of any gratification within the meaning of any of the preceding paragraphs;

“grievance” means any feeling of dissatisfaction, injustice or unfair practice or working conditions experienced by a member or, in the case of a “collective grievance” a group of identified members, relevant to his or her or their job or his or her or their working environment, but excludes the execution of a lawful instruction, a charge of misconduct or a sentence imposed after a disciplinary hearing or incapacity or disciplinary inquiry;

“Head” means the person appointed under regulation 5 of the Regulations as the Head of the Service, and includes an Acting Head;

“Inspector-General” means the Inspector-General of the Namibian Police referred to in the Act;

“Labour Act” means the Labour Act, 2007 (Act No. 11 of 2007);

“Local Authorities Act” means the Local Authorities Act, 1992 (Act No. 23 of 1992);

“medical practitioner” means a person who is registered as such in terms of the Medical and Dental Professions Act, 2004 (Act No. 10 of 2004), and includes a person who is registered as a nurse or midwife in terms of the Nursing Act, 2004 (Act No. 8 of 2004);

“management committee” means the management committee of the Council as defined in section 1 of the Local Authorities Act;

“member”, excluding a member of the Service Advisory Committee and of a Service Selection Committee, means a person appointed as member of the Service, and where applicable, includes, the Head, Deputy Head and Senior Superintendent;

“misconduct” means -

- (a) the commission or omission of an act referred to in regulation 55;
- (b) any contravention of any other provision of these regulations, the Act or Regulations;
- (c) the commission of any crime or any offence;
- (d) the contravention of any Council Resolution or non compliance thereof;

“officer” means an officer holding a rank as set out in Annexure 1;

“official leave” means an official paid leave to attend a funeral of a deceased member approved under regulation 36(7);

“overtime” means time worked in excess of the hours a member ordinarily works in any ordinary working day, but does not include any work done on -

- (a) a Sunday; or
- (b) a public holiday,

if it is an ordinary working day for that member;

“Pension Fund” means the Retirement Fund for Local Authorities and Utility Services in Namibia or any other pension fund established under section 27(1)(c)(ii)(bb) of the Local Authorities Act, and includes a united pension fund, to which the Council may contribute on behalf of members;

“private work”, includes any enterprise or work conducted or performed by a member outside his or her normal functions as a member;

“public holiday” means any public holiday referred to in, or declared under, section 1 of the Public Holidays Act, 1991 (Act 26 of 1991);

“Regulations” means the Regulations for Municipal Police Services made under section 43C(2) of the Act, and published under Government Notice No. 184 of 16 October 2002;

“remuneration” means the total value of all payments in money and in kind made or owing to a member arising from the employment of that member, but excluding -

- (a) any subsistence and travel allowance paid to the member for the attendance of ad hoc events of whatsoever nature;
- (b) the value of any accrued annual leave of the member;
- (c) service allowance; and
- (d) any other payment made or owing to a member that a Court found not to be included in “remuneration”;

“Road Traffic and Transport Act” means the Road Traffic and Transport Act, 1999 (Act No. 22 of 1999);

“Service” means the Windhoek Municipal Police Service referred to in regulation 2;

“service allowance” means an allowance paid under regulation 29;

“staff member” means any person employed permanently or temporarily on a full-time or part-time basis or under a contract of employment, in a post on or additional to the fixed establishment of the Council, and includes the Chief Executive Officer and excludes, except as otherwise provided in section 94C of the Local Authorities Act, the members of the Service and independent contractors;

“supervisor” when used with regard to a member means that member’s immediate supervisor but, for purposes of regulations 55 and 56, includes a Unit Commander, Superintendent, a Senior Superintendent, a Deputy Head and the Head;

“the Act” means the Police Act, 1990 (Act No. 19 of 1990), as made applicable to a municipal police service by regulation 10 of the Regulations to the extent specified in column 1, and modified in column 2, of Annexure 2 to the Regulations;

“unit” means the operational unit as established under subregulation 6(1) for purposes of the fixed establishment of the Service;

“unit commander” means the Senior Superintendent referred to in subregulation 6(1);

“urgent work” means any emergency work which, if not attended to as soon as possible, could result in harm to, or endanger the life, personal safety or health of any person or that of the public generally or could result in the serious damage to or destruction of property;

“week”, in relation to a member, means the period of 7 days within which the working week of the member falls; and

“weekly interval” means the period between the end of one ordinary working week of a member and the start of that member’s next working week, if any.

PART 2

WINDHOEK CITY POLICE SERVICE

Continuation of Service

2. The Municipal Police Service for the Municipality of Windhoek established by the Council under section 43C(1) of the Act read with regulation 2 of the Regulations and known as the Windhoek City Police Service, acronyms “WCPS” or “City Police” is continued and consists of all persons appointed as members in terms of regulation 10 read with regulation 69.

Service Advisory Committee

3. (1) The Council may establish, under section 30(1)(w) of the Local Authorities Act, an advisory committee to be known as the Service Advisory Committee to advise the Council generally on matters affecting, or relating to, the Service.

(2) The Service Advisory Committee consists of one representative of -

(a) Namibian Defence Force;

(b) Namibian Police Force; and

- (c) Namibian Correctional Service,

appointed by the Council.

(3) The Service Advisory Committee may, with the prior consent of the Council, co-opt a maximum of three persons and which persons have deliberative rights as members, but have no right to vote.

(4) The Council may refer any matter to the Service Advisory Committee that falls within the terms of reference of the Committee, as determined by the Council from time to time, for investigation, consideration and advice.

(5) The Service Advisory Committee may on its own motion investigate, consider and advise or appoint a subcommittee consisting of elected Committee members to advise the Council or the Chief Executive Officer on any matter falling within its responsibilities.

(6) The Chief Executive Officer may assign any member or staff member to assist the Service Advisory Committee in the exercise and performance of its powers and functions under this regulation.

(7) The Council may adopt rules regulating the convening and holding of meetings of the Service Advisory Committee, procedures to be followed at such meetings and matters incidental thereto.

(8) The Service Advisory Committee may not incur expenses without the prior consent of the Council.

(9) The Service Advisory Committee may not issue instructions to the Head or to any member.

(10) The Council may determine, and from time to time adjust, a sitting allowance for members of the Service Advisory Committee who are not members of the Service or in the full-time service of the Council.

Service Selection Committee

4. (1) The management committee may appoint committee, to be called the Service Selection Committee, under section 26(1) of the Local Authorities Act to advise the Head and make recommendations to the Management Committee, on the appointment of fit and proper persons as members as set out in regulation 10.

(2) The Committee consists of -

- (a) two persons nominated by the Director-General of the Namibian Central Intelligence Service and appointed by the management committee;
- (b) two persons nominated by the Minister responsible for the Namibian Police and appointed by the management committee;
- (c) two persons nominated by the Minister responsible for the Namibian Defence Force and appointed by the management committee; and
- (d) the Head, who may not be a part of the Committee whenever his or her position is being discussed, in which case a person nominated by the Chief Executive Officer must sit in the place of the Head.

- (3) The Council may, upon recommendation by the management committee, adopt a Recruitment, Selection and Employment Policy, which Policy must -
- (a) conform with -
 - (i) National Security Legislation and Standards for the recruitment and employment of members of Police Force, inclusive of any Cabinet resolutions thereon; and
 - (ii) the Affirmative Action (Employment) Act, 1998 (Act 29 of 1998) and the Council's Affirmative Action Policy in so far as they relate to Police Force;
 - (b) contain at least -
 - (i) a pre-interview assessment for the purpose of short listing applicants, which assessment must at least test -
 - (aa) arithmetic skills;
 - (bb) problem solving skills;
 - (cc) spatial aptitude;
 - (dd) verbal skills
 - (ee) written communication skills;
 - (ff) physical skills and abilities;
 - (gg) audio-visual skills;
 - (hh) whether the applicant meets the requirements set out in paragraphs (c), (d) and (g) of regulation 10(3) and is not barred by the provisions of paragraph (h) of regulation 10(3) from being employed; and
 - (ii) the authenticity of the qualifications submitted,
which tests and enquiries need not be conducted by the Committee itself;
 - (ii) an interview assessment by the Committee to confirm and amplify at least the results of the pre-interview assessment; and
 - (iii) a post interview assessment of applicants short listed after the interview assessment, being at least -
 - (aa) a security screening by or on behalf of the members representing National Intelligence;
 - (bb) a criminal record screening by or on behalf of the members representing the Namibian Police; and
 - (cc) a medical examination covering the requirements of paragraph (e) of regulation 10(3).
- (4) The Council may adopt rules regulating the convening and holding of meetings of the Committee, procedures to be followed at such meetings and matters incidental thereto.

(5) The Committee may not appoint as an employer, its own employees but the Chief Executive Officer may designate any member or staff member to assist the Committee in the exercise of its powers, functions and duties under this regulation.

(6) The Committee may not incur expenses without having the prior consent of the Council thereto.

(7) The recommendations of the Committee to the Management Committee must be in writing, is confidential and may only be disclosed to persons involved in the appointments concerned.

(8) A member of the Committee must disclose any interest that he or she might have in writing and must withdraw from, and may not be present at, any discussion of such matter.

(9) Any rules made under subregulation (4) may provide that a member failing to disclose his or her interest in a matter may lose his or her seat on the Committee, and the process to be followed in that regard.

(10) The Council may determine, and from time to time adjust, a sitting allowance for members of the Committee who are not members of the Service or who are not in the full-time service of the Council.

(11) The Head must submit the recommendations of the Committee to the Chief Executive Officer.

PART 3

FIXED ESTABLISHMENT, ORGANIZATION AND ADMINISTRATION OF SERVICE

Determination and distribution of establishment

5. (1) The Council must determine the fixed establishment of the Service.

(2) The Head, subject to the directives of the Chief Executive Officer, is responsible for making recommendations to the Council as to the numbers, grading, regarding, conversion or abolition of posts constituting part of the fixed establishment of the Service, including any reduction in or reorganization or readjustment of the Service.

(3) The Chief Executive Officer, after consultation with the Head, may designate or second or transfer a staff member on the fixed establishment of the Council to render administrative, technical or other support services to the Service for its operational requirements and a member or staff member so designated or seconded or transferred must render such service required under these regulations

(4) Any re-organization contemplated in subregulation (2) which involves expenditure must be approved by the Council, and may not be carried out unless prior approval for such expenditure has been obtained.

(5) Subject to section 94C of the Local Authorities Act, nothing in these regulations prevents the Service from being part of a department referred to in section 28 of the Local Authorities Act, nor does it prevent the Head of being the head of such a department.

Organizational composition and rank structure of Service

6. (1) Subject to regulation 5(2), the Service must be divided into such units as the Council may from time to time determine, but every unit is under the command of a Senior Superintendent who may command more than one unit.

(2) Subject to regulation 5, the Council may subdivide a unit into different branches or sections and assign such designation to such branches or sections and the members attached thereto as the Council thinks fit.

(3) The ranks in the Service in order of precedence are set out in Annexure 1.

(4) The Chief Executive Officer, if he or she thinks it expedient from time to time, may temporarily confer a higher rank on any member, and such member holds such temporary higher rank at the pleasure of the Chief Executive Officer.

(5) A member to whom a rank referred to in subregulation (4) has been conferred has the powers and authority applicable to such rank, but such member is not entitled to the higher scale of basic wage or allowances applicable to such rank if the appointment is for a period of less than 30 days.

(6) An officer, irrespective of length of service or seniority in service or rank, is deemed to be the superior of any member over whom such officer exercises authority or to whom such member is reporting.

(7) The Council may determine by way of directives the dress and clothing of the members of the Service, and the control or disposal of any article or uniform or equipment by any member.

Powers and functions of Chief Executive Officer

7. (1) The powers and functions of the Chief Executive Officer are as conferred and imposed by the Act, the Local Authorities Act, the Road Traffic and Transport Act, 1999 (Act No. 22 of 1999), the Regulations and these regulations.

(2) Subject to any limitation imposed by any of the laws referred to in subregulation (1), the Chief Executive Officer may -

(a) exercise or perform any or all such powers or functions personally;

(b) instruct a member or a staff member to do so under his or her instruction and control;
or

(c) appoint a person or persons from outside the Service to advise him or her in respect of the exercise and performance of such powers and functions.

Appointment of Head, Deputy Head and Senior Superintendent

8. (1) The Council must appoint on its fixed establishment, in accordance with regulation 5(1) of the Regulations, a fit and proper person as City Police Chief to be the Head of the Service.

(2) The Council, on the recommendation of the Chief Executive Officer, may appoint more than one Deputy Head or Senior Superintendent of the Service.

(3) A person appointed as Head, a Deputy Head or a Senior Superintendent must enter into a written agreement of employment with the Council and that agreement, in addition to the Regulations and these regulations, govern the employment relationship between the Council and the Head, a Deputy Head or a Senior Superintendent.

Inquiry into incapacity of, or misconduct by, Head, Deputy Head or Senior Superintendent

9. (1) Regulation 19 in respect of incapacity inquiry applies to the Head, Deputy Head or Senior Superintendent, but subject to the following modifications -

- (a) the board of inquiry referred to in subregulation (1) of that regulation is to be appointed by the Chief Executive Officer and must consist of -
 - (i) a person having knowledge and experience in labour law, as chairperson;
 - (ii) two other suitable persons who are not in the employment of the Council, and one of whom must be a member of the Namibian Defence Force, the Namibian Police Force, the Namibian Central Intelligence or the Namibian Correctional Service which person must hold a rank equal to, or higher than, that of the Head, Deputy Head or Senior Superintendent;
- (b) The word “Head” in respect of subregulations (2) and (3) of that regulation is to be construed as the “Chief Executive Officer”;
- (c) “member”, when used in relation to the person whose alleged incapacity is the subject of the inquiry, is to be construed as the “Head”, “Deputy Head” or “Senior Superintendent”; and
- (d) “Head” in subregulations (4) and (5) of that regulation is to be construed as “Council”.

(2) Regulation 20 in respect of misconduct applies to the Head, Deputy Head or Senior Superintendent, but subject to the following modifications -

- (a) “member”, unless the context requires otherwise, to be construed as the Head, Deputy Head or Senior Superintendent;
- (b) “Head” in subregulations (1), (2), (3), and (4) of that regulation is to be construed as the “Chief Executive Officer”;
- (c) paragraph (a) of subregulation (3) of that regulation is replaced with the following paragraph:
 - “(a) a board of inquiry that consists of -
 - (i) a person having knowledge and experience in labour law, as chairperson;
 - (ii) two other suitable persons who are not in the employment of the Council, and one of whom must be a member of the Namibian Defence Force, the Namibian Police Force, the Namibian Central Intelligence or the Namibian Correctional Service which person must hold a rank equal to, or higher than, that of the Head;”;
- (d) “Head” in subregulations (7) and (8) is to be construed as “Council”.

(3) Before the appointment of the board referred to in regulation 20(3), the Chief Executive Officer may suspend the Head, Deputy Head or Senior Superintendent from office pending the inquiry referred to in regulation 20, and may lift the suspension at any time.

(4) The Head, Deputy Head or Senior Superintendent is not entitled to any basic wage in respect of the period of his or her suspension, except to the extent as the Council may direct.

(5) During the period of his or her suspension the Head, Deputy Head or Senior Superintendent is deprived of the powers, duties, functions and authority vested in him or her as Head but the Head continues to be subject to the same discipline and penalties as if he or she has not been suspended.

(6) The word "Head" in this Part, where applicable and for purposes of regulations 15 to 18 includes a Deputy Head and a Senior Superintendent.

(7) Regulation 22 in respect of appeals from an inquiry held under regulation 19 or 20 does not apply to the Head, Deputy Head or Senior Superintendent, but is dealt with as a review or an appeal to the applicable Labour Court.

PART 4

APPOINTMENT, PROMOTION AND TERMINATION OF SERVICE

Appointment of member

10. (1) If the management committee, on the recommendation of the Head, needs to fill a post on the fixed establishment of the Service, whether by promotion or appointment or transfer, the management committee must have regard to the qualifications, relative merit, efficiency and suitability of the person being considered for appointment or promotion.

(2) A person who wishes to be appointed as a member in the Service must -

- (a) apply on a form determined by the Council, and confirmed under oath or by way of solemn affirmation on that form that the information furnished by him or her is accurate and correct;
- (b) allow his or her fingerprints to be taken;
- (c) furnish proof that he or she has not been convicted of a criminal offence contained in Schedule 1 to the Act;
- (d) submit himself or herself to a medical examination;
- (e) furnish proof of his or her age;
- (f) furnish proof of his or her educational qualifications; and
- (g) sit for an examination or undergo such educational or aptitude tests or physical, health or mental tests as the Council, after consultation with the Inspector-General, may determine.

(3) Subject to this regulation, the Council's Affirmative Action Policy and the Recruitment, Selection and Employment Policy, a person may not be appointed as a member, unless -

- (a) the person has completed the probation period prescribed by regulation 26;

- (b) the Head has issued a certificate as determined by the Council confirming that the person has successfully completed the probation period and that the person is in all respects suitable to be appointed permanently as a member;
 - (c) he or she is a Namibian citizen;
 - (d) he or she is not under 18 years of age and not over 50 years of age;
 - (e) he or she is free from any mental or physical defect, disease or infirmity which, in the reasonable opinion of the Council, will or may interfere with the proper execution of his or her duties or necessitates his or her retirement before reaching 60 years of age;
 - (f) he or she has not been convicted of a criminal offence referred to in paragraph (c) of subregulation (2);
 - (g) he or she has passed at least the grade 12 examination or an examination equivalent to that grade or higher or the training determined under these regulations: Provided that the Council may for good reasons existing with regard to specific appointments relax the requirement of the grade 12 examination;
 - (h) he or she has not been dismissed from any employment as a result of misconduct of which dishonesty or poor human relations are elements;
 - (i) he or she is prepared to take the declaration of accession to office contained in Annexure 4.
- (4) The Council may waive the requirement referred to in subregulation (3)(e) with respect to any physical defect, disease or infirmity in exceptional circumstances.
- (5) Despite subregulation (3)(c), the Council, with the approval of the Minister responsible for Police, may authorize the appointment of a person with specialized experience or knowledge, who is not a Namibian citizen, in the Service in a temporary capacity for such positions as identified and approved by the Council, but the period for which the person is appointed may not exceed three years.
- (6) Any person appointed as a member of the Service under this regulation must take the declaration referred to in subregulation (3)(i) on a date to be determined by the Head, or as soon as practicable after that date.
- (7) Upon appointment as a member, a certificate of appointment referred to in regulation 13, must be issued to him or her.
- (8) Despite subregulation (7) -
- (a) no appointment made by the Council in terms of this regulation is invalid only due to the fact that the person or authority concerned did not issue a certificate of appointment as contemplated in subregulation (7);
 - (b) function performed by a member of the Service under this regulation is invalid due to the fact that the member cannot produce a certificate of appointment when requested to do so by a person in relation to whom such function has been performed, due to the fact that such certificate was not issued by the Council as contemplated in subregulation (7).

Prohibition of certain actions

11. (1) A person who has applied for employment in the Service may not offer a reward, gratification or benefit to, or attempt to offer a reward, gratification or benefit to, or unduly influence, any Councilor, a member of the Service Selection Committee or member or a staff member for the purposes of being so appointed.

(2) A person who contravenes subregulation (1) is regarded as unfit for appointment in the Service, and may be subject to disciplinary action if he or she has already been appointed.

Advertisement of vacancies

12. The Council must advertise by way of a notice at the Council offices or in a newspaper circulating in Namibia every vacancy for a permanent post on the fixed establishment of the Service, but this does not apply to the position of the Head, a Deputy Head or a Senior Superintendent.

Certificate of appointment

13. (1) The certificate of appointment referred to in regulation 10(7) must be in the form of Annexure 5.

(2) A member must carry his or her certificate of appointment on him or her whilst on duty.

(3) A member must produce his or her certificate of appointment when requested to do so by any person.

(4) A member must, upon termination or suspension of his or her services in any manner, return to the Council, his or her certificate of appointment, in the case of an authorized officer, the registration certificate issued to him or her by the Minister responsible for transportation the uniform and any other equipment or item issued to him or her for the purpose of performance of his or her duties in the Service.

Promotion

14. (1) The Head, before he or she recommends the promotion of any member to the Council to the rank of Deputy or Senior Superintendent or the promotion of a member to the management committee, of a higher rank, must satisfy himself or herself that the member is in all respects fit to hold the higher rank.

(2) If the Head generally, or in specific instances, considers it necessary, he or she may cause training to be provided, or cause examinations to be conducted in such subjects as may be determined by him or her as qualifications to be possessed by members on promotion.

(3) The Head, in addition to consideration of any other relevant factor, must use the Performance Management System of the Council as the basis to determine the fitness of a member for promotion.

Resignation of member

15. (1) A member may tender the resignation of his or her appointment with the Head by notice in writing, which resignation may only be withdrawn with the written permission of the Head.

(2) The notice referred to in subregulation (1) takes effect upon the expiration of 30 calendar days after the date upon which it is tendered or on such earlier date as may be approved by the Head on the request of the member or on the initiative of the Head.

(3) Despite subregulation (2) the notice of resignation in respect of a member who is on probation takes effect 7 calendar days after the date upon which it is tendered or on such earlier date as may be approved by the Head on the request of a member or on the initiative of the Head.

(4) A member who resigns must, upon resignation, hand over to the Head, his or her appointment certificate, in the case of an authorized officer, the registration certificate issued to him or her by the Minister responsible for transportation the uniform issued to him and any other equipment or item issued to him or her for the purpose of performance of his or her duties in the Service.

Retirement

16. (1) Subject to subregulation (4), the Pension Funds Act, 1956 (Act No. 24 of 1956) and the Income Tax Act, 1981 (Act No. 24 of 1981), a member must retire as provided for in the Rules of the Pension Funds.

(2) A member who has attained 55 years of age, subject to the legislation and the Rules referred to in subregulation (1), may give written notice to the Head of his or her wish to retire from the Service at any time before attaining the age of 60 years, and must be allowed to retire.

(3) The Head, Deputy Head or Senior Superintendent who has attained 50 years of age may, subject to the legislation and the Rules referred to in subregulation (1), retire from the Service before he or she attains 55 years of age and, if he or she so retires -

- (a) is deemed to have retired under subregulation (2); and
- (b) is entitled to such pension as provided for in the Rules of the Pension Fund to which he or she belongs.

(4) Despite subregulation (1), the Council may retain a member, with his or her consent, in his or her post beyond the age of 60 years for further periods which may not exceed five years in total.

(5) A member may only be retained under subregulation (4) if it is in the interest of the Service or generally in the public interest.

Discharge of members

17. (1) The Council may under regulation 9 read with regulations 19 and 20 and the Head may under regulation 19 or 20 discharge a member from the Service -

- (a) on account of indisposition, ill-health or injury redundancy appointment or election to a public office, abolition of his or her post, the reduction in the numerical strength, the re-organization or re-adjustment of the Service, or promotion of efficiency or effectiveness of the Service;
- (b) subject to regulation 18, on account of a sentence imposed on the member;
- (c) on account of unfitness for his or her duties, or incapacity to carry out his or her duties efficiently;
- (d) on account of misconduct.

- (2) The Council in respect of the Head and the Head in respect of a member -
- (a) subject to paragraph (b) may discharge -
- (i) the Head who absents himself or herself from his or her duties without the permission of the Chief Executive Officer; or
- (ii) a member, who absents himself or herself from his or her duties without the permission of the Head;
- at any time after such absence has continued for a period of 7 consecutive days or longer;
- (b) where a Head or a member is not discharged under paragraph (a) and such absence continues for a period of 30 consecutive days or more, such Head or member is deemed to have been discharged from the Service on account of misconduct with effect from the date immediately after the Head or the member's last date of attendance at his or her last place of duty;
- (c) where the Head or a member has been discharged under paragraph (a) or is deemed to have been discharged under paragraph (b) and evidence is provided to the Council, in the case of the Head, or the Head, in the case of a member, that the absence was for reasons beyond the control of the Head or member, and that he or she was unable to inform the Head or the Head, of the reasons for his or her absence the Council or the Head, may reinstate the Head or the member in his or her former post or in any other post upon such conditions as the Council or the Head may determine;
- (d) after the reinstatement referred to in paragraph (c), the the period of absence from duty is deemed to have been annual leave without pay or leave on such other conditions as may be determined by the Council, in the case of the Head, or by the Head, in the case of any other member.

Discharge on account of sentence imposed

18. (1) A member who is convicted of an offence and is sentenced to a term of imprisonment without the option of a fine, is deemed to have been discharged from the Service on account of misconduct with effect from the date following the date of such sentence, but if the term of imprisonment is wholly suspended the member is not deemed to have been discharged.

- (2) A member referred to in subregulation (1) whose -
- (a) conviction is set aside following an appeal or review and is not replaced by a conviction for another offence;
- (b) conviction is set aside on appeal or review, but is replaced by a conviction for another offence, whether by a court of appeal or review or the court of first instance, and sentenced to a sentence other than a sentence to a term of imprisonment without the option of a fine for the other offence; or
- (c) sentence to a term of imprisonment without the option of a fine is set aside following an appeal or review and is replaced with a sentence other than a sentence to a term of imprisonment without the option of a fine,

may, not later than 30 calendar days after the member's conviction is set aside or member's sentence is replaced by a sentence other than a sentence to a term of imprisonment without the option of a fine, apply to the Head to be reinstated as a member.

(3) If the Head receives an application by a person whose conviction is set aside as contemplated in subregulation (2)(a), the management committee may reinstate such person as a member with effect from the date upon which the member is deemed to have been discharged.

(4) If the Head receives an application by a member whose conviction is replaced or whose sentence is replaced as contemplated in subregulation (2)(b) or (c), the management committee may on the recommendation of the Head under the directives of the Head -

- (a) reinstate such person as a member with effect from the date upon which he or she is deemed to have been discharged; or
 - (b) cause an inquiry to be instituted in accordance with regulation 19 into the suitability of reinstating such person as a member.
- (5) This regulation may not -
- (a) be construed as precluding any administrative action, investigation or inquiry in terms of these regulations with respect to the member concerned; and
 - (b) preclude the taking of any lawful decision or action in consequence or any investigation or inquiry.

Incapacity inquiries

19. (1) The Head may designate three persons of whom, one must be a member, one must be a person with expertise in Industrial Relations and one must be a person with appropriate legal qualifications, to be known as a board of inquiry who, in general or in a specific case, may inquire into -

- (a) the fitness of a member to remain in the Service on account of indisposition, ill-health, diseases or injury;
- (b) the fitness or capacity to perform his or her duties or to carry them out efficiently;
- (c) the fitness of a member to remain in the Service if the member's continued employment constitutes a risk for the State, any person residing in the municipal area or any property situated within the municipal area;
- (d) an injury alleged to have been sustained by a member in an incident arising out of or in the course of his or her duty or a disease or indisposition alleged to have been contracted in the course of his or her duty or any subsequent incapacitation alleged to be due to the same injury, disease or indisposition;
- (e) the death of a member alleged to have been caused as a result of circumstances referred to in paragraph (d);
- (f) the fitness of a member to remain in the Service where the member has been found guilty of a criminal offence in a court of law;
- (g) any other matter which the Head, in consultation with the Chief Executive Officer, considers necessary to inquire into.

(2) The Head may designate any person who, in general or in a specific case, is to lead evidence at an inquiry contemplated in subregulation (1).

(3) If an inquiry contemplated in subregulation (1) is to be conducted, the Head must give the member who is the subject of the inquiry at least 14 consecutive days' written notice to appear before the board of inquiry, and such notice must set out the grounds of the inquiry, and such member has the right -

- (a) to be present at the inquiry and be heard;
- (b) to be assisted or represented at the inquiry by any other member, labour consultant or by a legal practitioner of his or her choice;
- (c) to give evidence;
- (d) to call witnesses, including a medical practitioner;
- (e) to cross-examine any person called as a witness in support of any allegation; and
- (f) to have access to documents to be produced at the inquiry or otherwise produced in connection with the alleged incapacity, but either party may be allowed to produce further documents if there are good reasons for late production and the party entitled to access is thereafter given a reasonable opportunity to consider such further documents.

(4) After the conclusion of an inquiry referred to in subregulation (3), the board of inquiry must -

- (a) compile a report on its findings and recommend to the Head one of the following -
 - (i) no action may be taken against the member;
 - (ii) the member be discharged from the Service;
 - (iii) that member be reduced in rank or remuneration or both rank and remuneration to the extent recommended; or
 - (iv) any other appropriate steps be taken against the member, including referral to a disciplinary inquiry in terms of regulation 20 or regulation 21.
- (b) in writing inform the member who is the subject of the inquiry of its findings and recommendations.

(5) The Head, on receipt of the recommendations contemplated in subregulation (4), may -

- (a) accept and implement any recommendation; or
- (b) alter any recommendation, after having given the member the opportunity to address him or her on the proposed alteration, as he or she thinks reasonable and fair under the circumstances.

Disciplinary hearings

20. (1) Subject to subregulation (9), if a member commits an act or omission, the Head or another member designated for that purpose by the Head, must as soon as possible within a period not exceeding three calendar months from the date the Head or the other member designated by the Head becomes aware of the alleged misconduct, charge the member in writing with misconduct, and the charge must -

- (a) as near as possible, be in the form of Form 1 of Annexure 6 and;
- (b) contain a direction calling upon the member charged to furnish the Head within 14 working days of receipt of the charge -
 - (i) a written admission or denial of the alleged misconduct; and
 - (ii) a written explanation regarding the admission or denial of the misconduct with which the member is charged, if the member so elect.
- (2) If the member charged with misconduct admits that he or she is guilty of misconduct, and the person charging the member accepts the admission, the member is deemed to be guilty of misconduct as charged, and the member designate must recommend to the Head any penalty referred to in subregulation (7).
- (3) If the member charged with misconduct denies the charge of misconduct or fails to comply with the direction contemplated in subregulation (1)(b), the Head must appoint -
 - (a) a board of inquiry consisting of three persons of whom, one must be a member, one must be a person with expertise in Industrial Relations and one must be a person with appropriate legal qualifications, to inquire into the charge of misconduct of the member, but a person who has participated in the formulation of the charge against the accused or in investigating the misconduct of which the accused member is accused of is not eligible for appointment on the board of inquiry; and
 - (b) any person to lead evidence in support of the charge;
 - (c) one person from amongst the members of the board of inquiry appointed in terms paragraph (a), as the Chairperson of that board.
- (4) At a hearing in terms of subregulation (3) the member charged has similarly the rights referred to in regulation 19(3).
- (5) At the conclusion of the inquiry in terms of subregulation (3) the board of inquiry must inform the member charged with misconduct of its findings.
- (6) If the member charged with misconduct is found guilty, the board of inquiry must grant -
 - (a) that member an opportunity to place before it mitigating factors; and
 - (b) the person leading evidence an opportunity to place before it any aggravating factors.
- (7) After hearing the mitigating and aggravating factors, the board of inquiry must compile a report on its findings, and recommend to the Head one of the followings, that the member -
 - (a) be cautioned or reprimanded and indicate the period for which the caution or reprimand is valid;
 - (b) be reduced in rank or remuneration or both rank and remuneration to the extent recommended;
 - (c) be ordered to repay the whole or part of any loss proven to have been suffered by the Council as the result of the misconduct;

- (d) be discharged from the Service;
 - (e) be called upon to resign from the Service on a date to be fixed by the Head.
- (8) After considering the report and any recommendation referred to in subregulation (7), the Head may-
- (a) accept and implement such recommendation; or
 - (b) alter a finding or a recommended penalty, after having given the member the opportunity to address him or her on the proposed alteration, as he or she thinks fair and just in the circumstances;
 - (c) send the matter back to the board of inquiry to hold a further inquiry and to report its findings and make recommendations in terms of that subregulation.
- (9) The Chief Executive Officer may extend the period referred to in sub regulation (1) to a further period depending on circumstances to charge a member if the investigation into the misconduct has not yet been completed due to the complexity of the investigation or any outstanding information.

Procedures of board of inquiry

- 21.** (1) A board of inquiry appointed under regulation 9, 19 or 20, must determine its own procedures, and the chairperson must -
- (a) make sure that the inquiry is conducted in such a manner as he or she considers fair and most suitable to the clarification of the issues before the board and, generally, to the just handling of the proceedings; and
 - (b) so far as possible, seek to avoid formality in the proceedings.
- (2) A simple majority of the members of the board forms the quorum.
- (3) The decision of the majority of the members of the board of inquiry constitutes the decision of the board, but a dissenting member must give reasons in writing for his or her dissenting vote.

Appeals

- 22.** (1) A member who is dissatisfied with a decision of the Head in terms of regulations 19 or 20 or who is discharged in terms of regulation 17(2)(b) or 18(1) may in writing notify the Head, of his or her intention to appeal to the Council against such decision or discharge not later than 7 working days from the date he or she received the notice of such decision or discharge, or such other period as the Head may allow.
- (2) The notice of appeal to the Council referred to in subregulation (1) must -
- (a) be as near as possible be in the form of Form 3 in Annexure 6;
 - (b) be delivered to the Head; and
 - (c) set out the grounds of appeal.
- (3) The Head, within 30 calendar days of receipt of the notice of appeal, must submit to the Council the notice of appeal, the report and the recommendations of the board of inquiry

referred to in regulation 19 or 20 and reasons for any alteration made by the Head to any such recommendation, if any.

(4) The noting or execution of an appeal under this regulation does not suspend the decision of the Head or the discharge of the member who appealed.

(5) The Council, after considering all the documents submitted to it in terms of subregulation (3) and after having given the appellant or his or her representative an opportunity to address it or make such other written or oral representation, may -

- (a) allow the appeal in whole or in part;
- (b) replace a sentence, after having given the member the opportunity to address it on the proposed alteration, with the sentence it considers fair and just; or
- (c) dismiss the appeal.

Powers of board of inquiry

23. (1) For the purposes of an inquiry, the chairperson of a board of inquiry or the person appointed to lead the inquiry, may -

- (a) subpoena any person to appear as a witness at such inquiry at the time and place specified in the subpoena in order to answer any question or to produce any document or thing under his or her control which is relevant to the matter in question; and
- (b) call any person present at such inquiry as a witness, and must administer an oath or affirmation to the witness, and, if the witness is to give evidence through an interpreter, to an interpreter.

(2) The subpoena referred to in subregulation (1)(a) must be ordered by the chairperson of the board of inquiry concerned or the person appointed to lead the inquiry, and must be issued by the Head and be served by any member, personally, on the person subpoenaed, and the person subpoenaed is entitled to witness fees and allowances as determined by the Council.

(3) The subpoena must as near as possible be in the form of Form 5 of Annexure 6.

Suspension of members

24. (1) Subject to subregulation (2), the Head, after consultation with the Chief Executive Officer, may suspend any member from his or her office -

- (a) pending his or her trial for a criminal offence; or
- (b) pending an inquiry as contemplated in regulation 18(4)(b) or 19(1)(c) or 20;
- (c) after his or her conviction of a criminal offence; or
- (d) during any period of his or her arrest and detention for a criminal offence or during or pending an investigation of an averred criminal offence.

(2) If the Head wishes to suspend a member under this regulation, the Head, except where it is in the interest of the Service that a member be immediately suspended, may give the member an opportunity to make representations as to why he or she should not be suspended.

(3) During the period of his or her suspension a member may not exercise the powers, duties, functions and authority vested in him or her as a member, but he or she continues to be subject to the same discipline and penalties as if he or she has not been suspended.

(4) A member who is suspended from office, in respect of the period of his or her suspension, is not entitled to any basic wage, except to the extent as the Head, at the written request of the member, may direct.

PART 5

TERMS AND CONDITIONS OF SERVICE

Applicability of personnel rules and conditions of service of Council

25. (1) The personnel rules made by the Council under section 27 of the Local Authorities Act, except for rules made under sections 27(1)(c)(ii)(bb) and (iii) and 94 and of section 94A(1)(d), do not apply to members of the Service.

(2) The Council, in addition to the conditions or terms of service provided in these regulations, may determine the basic wage and other benefits or allowances that the members are entitled to.

(3) The basic wage, benefits or allowance or other conditions and terms of service which are applicable to a member may not be reduced or altered without the member's consent, except in accordance with the provisions of any law or following an inquiry under regulation 9, an inquiry under regulation 19 or a disciplinary inquiry under regulation 20, but this subregulation does not apply in respect of a service allowance payment if such payment is no longer applicable.

(4) If a member has received an overpayment on his or her remuneration or any other payment due to the member or a wrong calculation of leave days due, as a result of the negligence, error or whatever reason, the member must repay the Council such overpayment or the value of the leave days due on conditions and terms to be agreed upon, and failing such agreement, in reasonable installments as determined by the Head.

(5) No deduction of any repayment in terms of subregulation (4) may be made without the authorisation of the member, and a total deduction by agreement may not exceed one-third of the monthly basic wage of the member, and no interest may be charged, but if the member refuse to authorize such deductions the Head may authorize monthly deductions not exceeding 10 per cent of the basic wage of the member.

(6) Subregulation (5) does not apply where a Court orders repayment of the amount due with or without payment of interest.

(7) Where the overpayment or leave days exceeded, leave days available and due referred to in subregulation (4) is caused by the member or received or taken by the member knowing it to be an over payment or leave days exceeded, such causation or acceptance constitutes misconduct by the member as referred to in regulation 55.

Probation period

26. (1) A person appointed as a member is appointed on probation in accordance with subregulation (2).

(2) A person who has been appointed as member under regulation 10, before his or her appointment on the fixed establishment is confirmed, must serve a 12 calendar months probation

period, and if after the first 12 calendar months probation the appointment of a member is not confirmed, the probation period may be extended for a further six calendar months period and thereafter no further extension may be allowed.

(3) A member who is on probation must be appraised quarterly during the probation period and if the performance of the member is unsatisfactory he or she must be informed in writing in what respects it is unsatisfactory.

(4) A member who is on probation and whose performance is unsatisfactory must be given the reasonable assistance, training or development to enable the member to meet the required standards.

(5) At least 1 calendar month before completion of any probation period by a member, the Head must issue a certificate in which he or she certifies that the member is suitable or not suitable to be appointed permanently on the fixed establishment and a copy of such certificate must be handed to the member.

(6) If the Head certifies that the member is not suitable for appointment he or she may recommend that the probation period be extended, and must in that case also stipulate the nature and extent of assistance, training or development the member requires to meet the required standards and must ensure that such assistance, training or development is provided.

(7) A member who is on probation must contribute to and become a member of the Pension Fund and medical aid fund approved by the Council and of the Social Security Commission in terms of the Social Security Act, 1994 (Act No. 34 of 1994), except where the Pension Fund or a medical aid fund regulations provides otherwise.

(8) Whenever a Head, Deputy Head or Senior Superintendent is on probation the reference to "Head" in subregulations (5) and (6) must be construed as a reference to the Chief Executive Officer and the reference to "member" in those subregulations must be construed as a reference to the Head, Deputy Head or Senior Superintendent.

Working days and hours

27. (1) Subject to subregulation (2), a member must perform his or her functions and duties on any day of the week.

(2) The Council must determine the ordinary working hours of the members, and the members must comply with such working hours, but the normal working hours so determined may not exceed -

- (a) 45 hours per week in respect of members working 5 days per week; or
- (b) 60 hours per week or 10 hours per day or 10 hours per shift in respect of members working six days per week.

(3) Subregulation (2) does not apply while the member performs urgent work or while the member performs work connected with the arrival, departure, provisioning, loading or unloading of a truck or other vehicle used for the transportation of passengers or perishable goods or any State motorcade or foreign dignitary procession.

Overtime

28. (1) The Head may require any member to work overtime and a member, who is so required, must work overtime.

(2) Despite any other provisions of these regulations to the contrary, the Council must pay a member who performs administrative duties during a five or six day working week for any overtime actually worked at a rate of at least one and a half times the hourly basic wage of the member, but when a member who ordinarily works on a Sunday or public holiday works overtime on a Sunday or public holiday, the Council must pay that member for the time worked overtime at a rate of at least double the hourly basic wage of the member.

Service allowance

- 29.** Subject to regulations 28 and 31, the Council -
- (a) may pay members who work six days a week a fixed service allowance as determined by the Council, instead of overtime or stand by duty, on the basis, determined by it irrespective of whether stand by duty was rendered or not or overtime was worked or not, and if overtime was worked irrespective of the hours so worked, during the month that the payment is made for;
 - (b) must discontinue payment of fixed service allowance to a member, if and when the member is designated, seconded, rotated or transferred or re-organized to a unit or section under regulation 5(3) where a service allowance is not payable, but subject to payment of overtime under regulation 28 if and when overtime is worked.

Standby duty

30. (1) The Council may require a member who is off duty to be available to perform any duty after that member's ordinary working hours in a case of urgent work or when the Service requires his or her service, and where there is a possibility that urgent work may arise then the member may be placed on standby duty by the Head and such a member must be available to go on duty at any time when required to do so.

(2) A member who is not on duty may not leave the area of jurisdiction without informing his or her immediate supervisor of his or her intended absence and his or her contact numbers during his or her intended absence from the area of jurisdiction.

(3) A member who is on stand-by duty may not leave the area of jurisdiction without the written permission of his or her immediate supervisor, which permission may include conditions regarding the recall of the member to go on standby duty or to go on duty.

(4) The service allowance payable under regulation 29 includes a standby duty payment component and no further compensation becomes payable for being placed on standby duty.

Application for annual or special leave

31. (1) A member who wishes to take annual or special leave must apply for such leave of absence in the form determined by the Council at least 14 days before he or she takes such leave.

(2) An application for leave referred to in subregulation (1) may be approved only by the Head or the person to whom the Head has delegated that power and the member may not take leave unless and until it has been approved.

(3) If, in the opinion of the Head, it is impossible to apply for annual leave as required under subregulation (1), the member must apply for annual leave not later than 2 working days after he or she has returned from the annual leave, but the member must inform the Head or Deputy Head or his or her supervisor of his or her intended absence and the reasons why it was impossible to timeously apply for leave.

(4) If an application for leave has been approved, the application form must be forwarded to the person who is responsible for keeping leave records, and that person must ensure that the necessary entry is made in the leave records.

(5) All leave owing to, and leave granted to and used by a member, must be recorded, either manually or electronically, in a leave record, which must be kept for such purposes.

(6) A leave record of the member must be available for inspection by the member at all reasonable times during ordinary office hours.

(7) If the Council inadvertently grants to a member more days of annual leave than the member is entitled to, the Council may deduct the number of excess annual leave days granted from the annual leave days which stand to the credit of the member or which may in future accrue to that member or on termination of service the value of such leave may be deducted from the final remuneration payable to the member.

Annual leave

32. (1) The Council, on application by a member, must grant to the member annual leave on full remuneration in respect of each period of 12 consecutive months (leave cycle) for which the member is employed by the Council, on a date determined by it, which date may not be later than 4 months after the expiration of the leave cycle of the member, but a member may, before the 4 months expire, agree in writing to extend the 4 month period by a further 2 months.

(2) Despite subregulation (1), but subject to subregulations (10), (12) and (13) of regulation 35, the Council may not grant to a member the leave referred to in that subregulation to run concurrently with any period of sick leave granted in terms of regulation 35, or with a period of notice of termination of contract of employment or in lieu of maternity leave that must be taken.

(3) The number of annual leave days is -

(a) Group A:

36 working days per annum in respect of a member who is on E or F band;

(b) Group B:

32 working days per annum in respect of a member who works a five days per week and who is on D or lower band; and

(c) Group C:

38.40 working days per annum in respect of a member who works a six days per week;

(d) Group D:

44.80 working days per annum in respect of a member who works seven days per week and who is on the D or lower band.

(4) Every member must take at least 24 consecutive calendar days annual leave during any leave cycle, but that period of leave may be reduced by the number of days which the member was, during the relevant leave cycle, granted occasional leave on full remuneration at his or her request.

(5) Subject to regulation 33, the Council may not require or permit a member to perform any work as a member during his or her annual leave, except in cases of urgent work or where the general workload of the Service requires it.

Cancellation, interruption or postponement of annual leave

33. (1) Despite any other provision of these regulations, the Head after consultation with the Chairperson of the Management Committee, may at any time cancel, postpone or interrupt the leave granted to a member under regulation 32(1), if the Head thinks it necessary in the interests of the Service or in the public interest to do so.

(2) If a member's annual leave granted under regulation 32(1) is cancelled, postponed or interrupted under subregulation (1), the Council must -

- (a) pay the expenses incurred in respect of commitments made by the member before he or she was notified of the cancellation, postponement or interruption;
- (b) pay the travelling expenses of the member for the forward and return journey, if the member was required to travel to resume duty; and
- (c) regard the member as being on duty while travelling to resume duty.

(3) The cancellation, postponement or interruption of annual leave under subregulation (1) must be confirmed in writing.

(4) If the annual leave applied for by a member is refused, cancelled, postponed or interrupted the reasons for the refusal, cancellation, postponement or interruption must be noted in the leave record, and the member must -

- (a) be credited with the number of leave days remaining after the cancellation or interruption of the annual leave; and
- (b) be permitted to take leave within 12 months after the refusal, cancellation, postponement or interruption.

Compulsory annual leave

34. If a member has more than 130 working days annual leave to his or her credit, that member is required to take at least 30 working days annual leave during the period to be determined by the Head, or in respect of the Head, Deputy Head or Senior Superintendent the Chief Executive Officer may determine and require such Head, Deputy Head or Superintendent, to take at least 30 working days annual leave.

Sick leave

35. (1) During any sick leave cycle, a member is entitled to sick leave as follows during the first 12 months of employment of the member, a one day sick leave for every 26 days worked, and thereafter -

- (a) not less than 30 working days, if the member ordinarily works not more than five days per week; and
- (b) not less than 36 working days, if a member ordinarily works six days or more per week.

(2) Subject to subregulation (3), the Council must pay a member an amount equal to the daily basic wage of the member for each day of absence on sick leave.

(3) Despite subregulation (2), the Council may not pay a member for absence on sick leave in any of the following circumstances, if the member -

- (a) has been absent from work for more than two consecutive days; and
- (b) fails to produce a medical certificate issued by a medical practitioner,

to the extent that the member is entitled to payment -

- (i) in terms of the Employee Compensation Act, 1941 (Act No. 30 of 1941), if the member is absent from work during any period of incapacity arising from an accident or a scheduled disease;
- (ii) in respect of the such leave under any other legislation.

(4) A member is entitled to 120 calendar days' sick leave in the aggregate on full remuneration, and 120 calendar days in aggregate on half remuneration during each period of 36 consecutive months (sick leave cycle).

(5) A member who is granted sick leave in terms of these regulations may not leave the area of jurisdiction of the Council, except with the permission of the Head or where the medical practitioner recommending the sick leave stipulates otherwise.

(6) Subject to subregulation (7), sick leave accrues to a member on the first day of the sick leave cycle and as from that day the full complement for the sick leave cycle concerned may be granted to the member.

(7) Not more than four working days sick leave on full remuneration and four working days sick leave on half remuneration for every completed month of service may be granted to a member during the first year of service.

(8) Subject to subregulation (9), the sick leave which is provided for any particular sick leave cycle but is not used during that cycle lapses at the end of that cycle and may not be carried forward to the next sick leave cycle.

(9) Despite subregulation (8), a member must be credited with the following sick leave days (accumulated sick leave) at the end of a sick leave cycle which must be carried forward to the next sick leave cycle -

- (a) one day accumulated sick leave on full remuneration for every eight days sick leave with full remuneration that are standing to the member's credit at the end of the sick leave cycle; and
- (b) one day accumulated sick leave on half remuneration for every eight days sick leave with half remuneration that are standing to the credit of the member at the end of the sick leave cycle.

(10) If a member is absent from duty through incapacity for a period of more than two calendar days, sick leave may be granted to him or her only if, on application for sick leave, he or she submits a medical certificate from a medical practitioner in which -

- (a) the medical practitioner certifies that he or she had seen the member and had examined him or her and the date he or she had done so;
- (b) the nature of the incapacity is clearly described;
- (c) it is declared that such member is unable to perform his or her duties; and

- (d) the period necessary for his or her recovery is also indicated,

provided that the Council may, in its sole discretion, accept a certificate from a medical practitioner which does not contain all elements listed herein save that it contains a clear description of the nature of or the cause of the incapacity.

(11) The Head may require the submission of a medical certificate in respect of a period of less than two days absence from duty.

(12) Despite subregulations (7) and (13), the Council, if it is satisfied that the absence of the member was in good faith due to incapacity and that good reasons exist why a medical certificate was not submitted, must exempt such member from the submission of a medical certificate in respect of a continuous period of sick leave of not more than 14 consecutive days.

(13) Sick leave with or without remuneration in respect of which a medical certificate was not submitted, may be granted only for a maximum of 14 calendar days during any year ending on 31 December and any further absence must be covered by the granting of annual leave or, if the member has no annual leave days to his or her credit, annual leave without basic wage.

(14) The Head, at any time, may compel any applicant for sick leave to subject himself or herself to examination by a medical practitioner appointed by the Council and if the certificate from such medical practitioner differs significantly from the medical certificate accompanying the application, the Head, in accordance with the medical certificate issued by the medical practitioner appointed by the Council, may -

- (a) curtail or refuse to grant such sick leave; or
- (b) if the sick leave has already been granted, curtail or cancel such sick leave.

(15) If a member to whom annual leave is granted under regulation 32(1) becomes incapacitated after his or her annual leave has begun, that portion of his or her annual leave during which he or she is incapacitated, may be converted into sick leave, if -

- (a) the member submits a medical certificate in which a medical practitioner certifies that he or she had seen and examined the applicant, the nature of the incapacity suffered from and that the applicant had to stay in bed during the period for which sick leave is applied; and
- (b) sufficient sick leave credit is available.

(16) A member to whom sick leave is granted on half remuneration or without basic wage and who has the necessary annual leave credit, may choose whether he or she wishes to take annual leave in place of sick leave on half remuneration or without basic wage.

(17) Nothing in these regulations precludes a member from leaving the Service on the grounds of ill-health before the maximum or any period of sick leave has been granted.

(18) In cases where the Pension Fund or where the Pension Fund's Rules allow it, the medical practitioner of the Council declares a member totally medically unfit for the position that he or she occupies, that member's service must be terminated by the Council on the date on which his or her medical unfitness has been accepted by the Pension Fund or the date determined by the medical practitioner and in such event an inquiry under regulation 19 is not required.

- (19) For the purposes of this regulation -

- (a) “incapacity” means inability to work owing to any sickness or ill-health or injury except injury or sickness caused by a member’s own misconduct; and
- (b) any inability to work, caused by an accident or a scheduled disease as defined in section 2 of the Employees’ Compensation Act is only regarded as incapacity during any period in respect of which no compensation is payable in terms of that Act.

(20) Despite the definition of “incapacity” in subregulation (19), the Council may regard alcoholism or drug addiction as incapacity and may in terms of this regulation grant to a member who is an alcoholic or drug addict, sick leave with full remuneration, but -

- (a) if medically certifiable symptoms for alcohol addiction or drug abuse occur after the member has been permanently appointed, that person may be granted sick leave with full remuneration only once during his or her period of service with the Council for the purposes of receiving specialised treatment at an approved institution; or
- (b) when medically certifiable symptoms for alcohol addiction or drug abuse occur during a member’s probation period or while the member has not been appointed permanently, the Council may, in accordance with these regulations, terminate the service of that member.

Compassionate and official leave

36. (1) A member, during each period of 12 months of continuous employment is entitled to five working days’ compassionate leave with fully paid remuneration.

(2) A member is entitled to compassionate leave if there is a death or serious illness in the family.

(3) A member who wishes to take compassionate leave must apply for such leave of absence in the form determined by the Council as soon as possible before he or she takes such leave.

(4) If, in the opinion of the Council, it is impossible to apply for compassionate leave as required under subregulation (3), the member must apply for compassionate leave not later than 2 working days after he or she has returned from the compassionate leave, but the member must inform the Head or Deputy Head or his or her supervisor of his or her intended absence.

(5) Compassionate leave -

- (a) does not form part of annual, sick or maternity leave;
- (b) does not entitle the member to any additional remuneration on termination of employment; and
- (c) if not used during the period referred to in subregulation (1), lapses at the end of that period.

(6) For the purposes of this section “family” means -

- (a) a child, including a child adopted in terms of any law, custom or tradition;
- (b) a spouse;
- (c) a parent, grandparent, brother or sister, of the member; or

- (d) a father-in-law or mother-in-law of the member.
- (7) Members may be granted official paid leave in order to attend a funeral of deceased member with fully paid remuneration, and -
- (a) a member who wishes to take official leave under this regulation must apply for such leave of absence in the form determined by the Council as soon as possible before he or she takes such leave;
- (b) the Head may grant official leave for any member who will act as pall bearer and an additional six members to attend the funeral of a deceased member, but with the prior written consent of the Chief Executive Officer, the Head may grant official leave to a greater number of members, but not more than the number that the Chief Executive Officer had agreed to, to attend the funeral;
- (c) if more members apply for compassionate leave to attend the funeral of a deceased member then the Head may grant compassionate leave to the number of members as he or she may determine;
- (d) if the operational requirements of the Service allow it the members granted official leave may be allowed to use a Council vehicle for the journey at the cost of the Council; or
- (e) if the operational requirements do not allow the use of a Council vehicle the Council may pay its normal kilometer allowance for the use of a private vehicle upon condition that the members concerned as far as possible travel in one vehicle;
- (f) no subsistence allowance is payable under this subregulation;
- (g) official leave under this subregulation -
- (i) does not form part of annual, maternity or sick leave; and
- (ii) does not entitle the member to any additional remuneration on termination of employment.
- (9) The Head may grant a maximum of five working days official leave to a member during any period of 12 months, but with the prior written approval of the Chief Executive Officer such period may be exceeded to the extent so approved by the Chief Executive Officer.
- (10) Subregulations (4), (5) and (6) of regulation 31 apply to this regulation with the necessary modifications.
- (11) In this regulation the words “funeral of a deceased member” means the funeral of a member who died from any cause, but excluding suicide, whilst in the employ of the Service.

Bonus leave

37. (1) The Council must grant to a member who was in the service of the Council at the date the regulations repealed by regulation 71 came into operation and thereafter who has completed a minimum of five years continuous service, a bonus leave, and thereafter for one more five year service period, but only to a maximum of two 5 years service periods where after the right to bonus leave lapses.

- (2) The number of leave days to be granted for a bonus leave must be as follows -

- (a) for the first five years of service -
 - (i) 61, 64 working days for a member who holds the position of Head or Deputy Head or Senior Superintendent and every member working five days per week; and
 - (ii) 73, 97 working days for any other member,which leave days will during the first period of five years not accrue pro rata should services be terminated before the expiry of the first period of five years; and
- (b) for each completed year or portion thereof of continuous service after the period of the first five years -
 - (i) 12, 33 working days for a member who holds the position of Head or Deputy Head or Senior Superintendent and every member working five days per week; and
 - (ii) 14, 79 working days for any other member.

(3) The Council, at the written request of a member made at least 14 days before the date (relevant anniversary date) that payment is required, may pay the member a cash amount not exceeding one day's basic wage of the member for every day of bonus leave credit, in lieu of a bonus leave.

(4) A bonus leave, which has not been used or paid out in cash amount, may be accumulated to a maximum of two times the number of days referred to in subregulation (2)(a) irrespective of whether such leave partially accrued before the regulations referred to in subregulation (1) came into operation.

(5) If a member dies, the value of all bonus leave due to his or her credit must, subject to a will of that member, be paid into his or her estate or the beneficiaries nominated by the member under the Pension Fund Rules.

- (6) If a member's contract of service is terminated-
 - (a) before the member completes five years continuous service with the Council, the Council may not pay out any cash value of the bonus leave; or
 - (b) after the member has completed five years continuous service with the Council, the Council must pay out to the member the cash value of the bonus leave standing to the member's credit.

(7) Despite subregulations (2)(a) and (6)(a), if the Council terminates a member's contract of service on account of redundancy or interest of the Service as contemplated in regulation 17(1)(a), the Council must pay a pro rata share of the cash value of the bonus leave that would have accrued to the member had the Council not terminated his or her contract of service.

- (8) For the purpose of this regulation -
 - (a) when calculating the period of five continuous years of service, annual leave without remuneration or special leave without remuneration, may not be taken into consideration;
 - (b) any cash value of bonus leave must be calculated according to the following formula -

- (i) $\frac{a \times b}{250}$ where a member works five days per week; or
 - (ii) $\frac{a \times b}{300}$ where a member works six days per week.
- (9) In the formula referred to in subregulation (8)(b) -
- (a) “a” represents the number of bonus leave days to the credit of a member; and
 - (b) “b” represents the annual basic wage received by a member on the day his or her contract of employment is terminated.

(10) Subregulations (4), (5) and (6) of regulation 31 apply to this regulation with the necessary modifications.

(11) Bonus leave which has accumulated under the former conditions of service is deemed to have accumulated for calculation purposes as continuous service in accordance with these regulations, but a member who has not yet accrued five years continuous service at the date the regulations are repealed, such pro rata years of service before such date, are added pro portionately to the years of services that follows the date of repeal, for entitlement as the first term bonus leave and thereafter for one more five year service period, but only to a maximum of two five years service periods.

Special leave

- 38.** (1) The Head, must grant to a member special leave with full remuneration, if the member -
- (a) is selected by a sports body registered with the Namibia Sports Commission, or a sports body for the uniformed services to -
 - (i) take part in a sports tour outside Namibia whether as competitor, coach or manager or any other official;
 - (ii) represent Namibia, as a competitor, coach or manager or any other official at an international sporting event in Namibia;
 - (iii) accompany a foreign national team visiting Namibia, as a representative of a Namibian sports body organizing the tour;
 - (b) is summoned as witness in proceedings before a court of law or to produce documents on behalf of the Council or in connection with the member’s official duty;
 - (c) has to study and sit for an examination as approved by the Council in accordance with the Council’s Training and Study Aid Policy, but such special leave -
 - (i) may not be taken earlier than 60 days before the date on which the examination in respect of which leave is granted is to be held;
 - (ii) may be granted only once per approved course;
 - (d) is appointed as a board member of a company in which the Government holds the majority of shares or a professional body established by law for board meetings and conferences; or

(e) is attending a congress, seminar, or conference or workshop on behalf of the Council.

(2) Special leave granted under subregulation (1)(a) or (e) may not exceed 10 working days in total in every financial year, and if the 10 days period is to be exceeded the member must motivate in writing to the Chief Executive Officer the grounds for exceeding that period.

(3) The Council, on application, may grant to a member special leave -

(a) without basic wage if the member has no annual leave days to his or her credit, and the Council is satisfied that the circumstances justify the granting of leave of absence; or

(b) on full remuneration or without basic wage if the Council so approves; or

(c) without basic wage where the member has no annual leave to his or her credit for purposes of accompany his or her spouse abroad on a diplomatic mission.

(4) Subject to regulation 35(17), the Council may grant to a member special leave on full remuneration if the member is unable to perform his or her duties on account of an accident -

(a) to which the Employees' Compensation Act applies; or

(b) which is covered by the insurance policy of the Council, if any, in respect of a member who is not covered by section 3 of the Employees' Compensation Act,

but that member, during the period of incapacity, may not receive payment from the Council, the Employees' Compensation Commissioner or the insurer of the Council which will result in his or her total income for the period of incapacity exceeding the amount of remuneration which he or she normally receives from the Council.

(5) Every member who applies for special leave, in support of his or her application, must submit a certificate stating the reasons for the application of special leave or such other proof as the Council may require and such member may not proceed with taking special leave before it has been approved.

(6) Subregulations (4), (5) and (6) of regulation 31 apply to this regulation with the necessary modifications.

Maternity leave

39. (1) Subject to subregulation (3), a female member who has completed six months' continuous service in the employment of the Service is, with a view to her confinement, entitled to not less than 12 weeks' maternity leave, calculated as follows -

(a) before her actual date of confinement -

(i) she is entitled to commence maternity leave four weeks before her expected date of confinement, as certified by her medical practitioner; and

(ii) she is entitled to maternity leave for the entire time from the commencement of her maternity leave as contemplated in subparagraph (i), until her actual date of confinement;

(b) after her date of confinement, she is entitled to -

- (i) eight weeks maternity leave in every case; and
 - (ii) in the case of a member whose date of confinement occurred less than four weeks after the commencement of her maternity leave, the amount of additional time required to bring her total maternity leave to 12 weeks.
- (2) The member must provide the Council with a certificate signed by a medical practitioner confirming-
- (a) the expected date of confinement before taking maternity leave; and
 - (b) the actual date of confinement on her return from leave.
- (3) During any period of maternity leave, the provisions of the contract of employment remain in force, and the Council must, during the period of maternity leave, pay to the member the remuneration payable to that member except the basic wage.
- (4) The Council must not dismiss a member during her maternity leave or at the expiry of that leave on -
- (a) any grounds of collective termination or redundancy; or
 - (b) any grounds arising from her pregnancy, delivery, or her resulting family status or responsibility.
- (5) Subregulation (4) does not apply if -
- (a) the Council has offered the member comparable alternative employment; and
 - (b) she has unreasonably refused to accept that offer.
- (6) A member who has been granted maternity leave must continue to pay her portion of the contributions towards the Pension Fund and medical fund on a monthly basis.
- (7) Subregulations (4), (5) and (6) of regulation 31 apply to this regulation with the necessary modifications.
- (8) Maternity leave that had been granted may not run concurrently with or be converted to any other form of leave.

Extended maternity leave

- 40.** (1) If a medical practitioner certifies that -
- (a) due to complications arising from pregnancy or delivery, it is necessary for the health of the member, the Council must grant that member extended maternity leave in excess of the periods referred to in regulation 39, up to a maximum equal to the greater of -
 - (i) one month; or
 - (ii) the amount of accrued sick leave that the member has at that time; or
 - (b) due to complications arising from birth or congenital conditions, it is necessary for the health of the member's child, the Council must grant that member extended

maternity leave in excess of the periods referred to in regulation 39(1)(b), up to a maximum equal to the greater of -

- (i) one month; or
- (ii) the amount of accrued sick leave that the member has at that time.

(2) If a medical practitioner issues a certificate in terms of both subregulation (1)(a) and (b), the periods of extended maternity leave must run concurrently.

(3) A period of extended maternity leave must run immediately before or immediately following a member's maternity leave in terms of regulation 39.

(4) During any period of maternity leave, the provisions of the contract of employment remain in force, and the Council must, during the period of maternity leave, pay to the member the remuneration payable to that member except the basic wage.

(5) The Council may not dismiss a member during her maternity leave or at the expiry of that leave on -

- (a) any grounds of collective termination or redundancy; or
- (b) any grounds arising from her pregnancy, delivery, or her resulting family status or responsibility.

(6) Subregulation (5) does not apply if -

- (a) the Council has offered the member comparable alternative employment; and
- (b) she has unreasonably refused to accept that offer.

(7) A member who has been granted extended maternity leave must continue to pay her portion of the contributions towards the Pension Fund and medical fund on a monthly basis.

(8) Subregulations (4), (5) and (6) of regulation 31 apply to this regulation with the necessary modifications.

(9) Extended maternity leave that had been granted may not be converted to any other form of leave.

Payment of leave credit at termination of contract of employment

41. (1) Where a member dies while he or she is in the Service, the Council must pay to the member's estate or the beneficiaries nominated by the member, in terms of the Pension Fund Rules, his or her full remuneration in respect of any annual leave which accrued to him or her, but was not granted before the date of termination (by reason of death) of the member's contract of employment.

(2) The amount to be paid to a member in terms of subregulation (1) is calculated in accordance with the following formula -

- (a) $\frac{a \times b}{250}$ where the member works five days per week; and
- (b) $\frac{a \times b}{300}$ where the member works six days per week.

- (3) In the formula referred in subregulation (2) -
- (a) “a” represents the number of days annual leave standing to the member’s credit on the day of his or her death or the date on which the contract of employment is terminated; and
- (b) “b” represents the remuneration received by the member on the date of his or her death or the date on which the contract of employment is terminated.

(4) Subject to subregulation (5), if the contract of employment of a member with the Council is terminated, and the member has accumulated annual leave days to his or her credit, the Council, in accordance with the formula referred to in subregulation (2) and (3), must pay that member his or her full remuneration in respect of any annual leave which accrued to him or her but was not granted before the date of termination of his or her contract of employment.

(5) The Council only pays out the cash value of annual leave days contemplated in subregulations (1) and (4) to the maximum of 130 days in respect of five working days per week and 156 working days in the case of six working days per week.

(6) A member who according to his or her appointment certificate, was appointed in the employment of the Council before the 31st of December 2007 is entitled to 156 working days.

(7) A member who according to his or her appointment certificate, was appointed in the employment of the Service after the 31st of December 2007 is entitled to -

Number of days in ordinary work week	Payment of leave credit
6	156 working days
5	130 days

Payment of travelling costs

42. (1) The Council may, once only, pay a member who has been recruited within Namibia but outside its area of jurisdiction the following moneys after assumption of duty, if the member, in order to reach and assume his or her employment -

- (a) uses road transport, the transport cost calculated on the basis of the per kilometer tariff as determined from time to time by the Automobile Association; or
- (b) uses rail transport, the transport costs to a maximum amount equal to the price of a first class train ticket for the member and his or her dependants, from the railway station or railway bus halt nearest to the member’s former place of residence to the Windhoek railway station; and
- (c) transports his or her personal effects to the Council’s area of jurisdiction, at an amount equal to the cheapest of three quotations quoted by at least three different furniture removal companies but if the cheapest quotation exceeds N\$10 000 quotations for the service must be called for under the Tender Board Regulations published under General Notice No. 73 of 12 April 2011.

(2) If the member makes use of means other than road or rail transport, he or she must be repaid as if he or she and his or her family had travelled by road or by rail whichever is the greater amount.

(3) The Council, by way of a special agreement, may pay a member recruited from outside Namibia the following -

- (a) the actual travelling costs of the member, his or her spouse and his or her dependent children from the place where he or she has resided, to the Council's area of jurisdiction, but the amount may not exceed an amount equivalent to an economy class air ticket;
- (b) the transport costs in respect of his or her personal effects from his or her former place of residence according to the basis provided in subregulation (1)(b).

(4) The Council may in writing agree with any member to pay the transport costs and allowances referred to in subregulation (1) and (2) on assumption of duty or some time thereafter and that a pro rata portion of, or the whole amount may be reclaimed by the Council if the member terminates his or her contract of employment with the Council within a period of two years from the date of his or her appointment.

(5) Every application for transport costs and allowances under subregulation (1) or (2) must be submitted in writing and must be supported with documentary proof to the satisfaction of the Council.

Subsistence and travel and special allowance

43. (1) The Council must pay to a member, whom it requires or directs to travel on official business or to attend a meeting or conference on behalf of the Council and who is absent from his or her normal place of work for a period of one day or longer -

- (a) a subsistence and travel; and
- (b) where applicable, special allowance,

at a daily rate and in accordance with the recommendations and directions of the Management Committee.

(2) If the period of absence referred to in subregulation (1) is less than one day, the Council must pay to the member a reasonable actual expenditure incurred by the member during the period of absence.

Inadequate subsistence and travel allowance

44. (1) If the subsistence, travel or special allowance referred to in regulation 43 is inadequate to cover the expenses which a member incurs over and above his or her normal living expenses when he or she is absent from his or her normal place of work, the Council may refund to the member the difference between the amount payable as subsistence, travel or special allowance in respect of the period of absence and the reasonable expenditure actually incurred by the member.

(2) The amount referred to in subregulation (1) may only be paid to a member when he or she supports the claim with the necessary receipts or vouchers.

Reimbursement for expenses incurred

45. (1) The Council must pay or reimburse a member who is required to travel outside Windhoek on official duty, the costs of -

- (a) conveying himself or herself and his or her personal luggage;
- (b) all reasonable expenditure incurred in connection with taxi hire, air fare, rail costs, insurance, portage, gratuities, landing or shipping fees, airport taxes; and

(c) other incidental services.

(2) No expense that had been included in a payment made under regulation 43 or 44 may be paid in terms of this regulation.

Severance pay

46. (1) Subject to subregulation (2), the Council must pay severance pay to a member who has completed 12 months of continuous service, if the member -

- (a) is dismissed or service is terminated for ill-health;
- (b) dies while employed; or
- (c) resigns or retires on reaching the age of 55 or 60 years; or
- (d) is retrenched.

(2) Subregulation (1) does not apply -

- (a) to a fair dismissal on grounds of misconduct or poor work performance;
- (b) if the member unreasonably refuses to be reinstated; or
- (c) if the member unreasonably refuses to accept employment on terms no less favourable than those applicable immediately before the termination of employment.

(3) Severance pay in terms of subrule (1) must be in an amount equal to at least one week's remuneration for each year of continuous service with the Council.

(4) When calculating the length of the service of a member for the purposes of subregulations (1) and (3) the following apply -

- (a) if the Service has been transferred to a State Department or another organization in which the State has a majority shareholding and the member continues in the service of that employer after the transfer the member retains any service acquired before the transfer of the Service and no severance payment is payable; and
- (b) "continuous service" is calculated as set out in regulation 37(8)(a).

(5) The payment of severance pay in terms of this section does not affect a member's right to any other amount that the Council is obliged to pay the member.

(6) If the contract of employment is terminated as a result of the death of the member and in the absence of a will, the Council must pay the severance pay to -

- (a) the surviving spouse of the member; or
- (b) if there is no spouse, to the children of the member;
- (c) if there are no children, to the estate of the member.

Acting allowances

47. (1) If a member is appointed to act in a higher post for a period of not less than 30 working days, the Council must pay that member an acting allowance equal to the difference

between his or her basic wage and the minimum notch of the basic wage scale pertaining to the post in which he or she is acting.

(2) A member may only be paid an acting allowance for a maximum period of six months which period may only be extended by the Chief Executive Officer for a maximum of a further 6 months in respect of a single vacancy.

(3) Subject to subregulations (1) and (2) and unless the Council has concluded an agreement to the contrary with the member, a member may not claim any remuneration in respect of additional duties performed by him or her for any reason.

Fringe benefits

48. (1) A member who holds the post of Head or Deputy Head or Senior Superintendent is entitled to participate in the Council's Motor Loan Scheme.

(2) A member who participates in the Council's Motor Loan Scheme may make use of a Council vehicle for operational reasons with the prior consent of the Chief Executive Officer in the case of the Head or with the prior consent of the Head in the case of all other members.

(3) A member who wishes to purchase or build a dwelling is entitled to the Council's guarantee in the form of collateral bond, surety bond or other deed of security under, and subject to, the Housing Policy of the Council.

(4) The Council, in respect of each period of 12 continuous months and on a date determined by it, must pay to a member who, at the date so determined, has completed at least 12 consecutive months of permanent service with the Service, an annual bonus (13th cheque) equivalent to a basic wage of one month of the member.

(5) Despite subregulation (4) -

(a) if a member only works for a portion of the 12 months period after the date determined under that subregulation, his or her annual bonus must be calculated on a pro rata basis of the continuous period worked by the member;

(b) if the contract of employment of a member is terminated for a reason other than that of misconduct before the date determined in terms of this regulation, the member is entitled to a pro rata payment of the annual bonus;

(c) if a member, during any 12 months period, has been -

(i) on annual leave without remuneration for a period exceeding 20 consecutive working days; or

(ii) on suspension for a period exceeding 20 consecutive working days and was found guilty of misconduct,

the Council, on a pro rata basis, may reduce that member's annual bonus in respect of that 12 months period.

(6) The Council must contribute a percentage, as may be determined by it, of the medical aid premium payable by a member in respect of any medical aid fund contributions.

(7) The Council must contribute a percentage, as may be determined by it, to the Pension Fund for the benefit of each member in respect of contributions of that member to the Pension Fund.

(8) The Council, in respect of a member who by the nature of his or her duties is not required to wear uniform, must pay to that member a clothing allowance as may be determined by it.

Strikes

49. (1) A member may not strike, induce any other member to strike, or conspire with another person to strike.

(2) If the Head has reason to believe that a member is striking or conspiring with another person to strike, the Head may in a manner which is reasonable under the circumstances, issue a written ultimatum to the member to terminate or desist from carrying out such conduct within the period specified in the ultimatum.

(3) If the member refuses or fails to comply with the ultimatum referred to in subregulation (2), or if the Head cannot reasonably be expected to issue the ultimatum referred to in subregulation (2) to a member personally, the Chief Executive Officer may summarily discharge the member from the Service, without an inquiry, by notice in writing, but -

- (a) the member so discharged must as soon as practicable after the date of discharge be notified in writing of the reasons for the discharge; and
- (b) the member so discharged, not later than 30 calendar days from the date he or she receives the reasons, may make written or oral representations to the Council regarding the revocation of the discharge.

(4) The Council, after having considered any representations, may reinstate the member so discharged, or confirm the discharge or impose such other sentence or penalty as it thinks fair and just.

(5) A discharge from the Service under subregulation (3) is not invalid solely by reason of such member not having received notice of the ultimatum referred to in subregulation (2).

(6) "strike" for purposes of this regulation means the partial or complete concerted refusal to work or to revert to go slow operations, or the retardation, prevention or obstruction of work by members whether doing so in order to resolve a grievance or dispute arising from their own employment or in solidarity with other persons employed by the Council or other employers.

Trade unionism

50. Subject to regulation 52 a member may not -

- (a) belong to a trade union;
- (b) participate in the activities of any trade union; or
- (c) in any other way promote the objects of any trade union.

Negotiation forum

51. (1) There is established a Negotiation Forum to negotiate with the Council on wages and benefits in terms of the conditions of service referred to in Part 5, but the negotiation does not include the benefits of the Head, Deputy Head and Senior Superintendents.

(2) The Negotiation Forum consists of two members from every unit with an alternate for each member, elected by secret ballot by members within the unit, excluding the Head, Deputy Head and Senior Superintendents commanding the unit.

(3) The term of office for members is two years, reckoned from 1 January of the year in which these regulations come into force to 31 December of the following year, and subsequent terms of office are computed in a corresponding manner, but if no elections for a Negotiation Forum has taken place by 31 December in the year in which a term of office ends, the outgoing Forum remains in office until the day immediately before the next election of members of the Forum takes place.

(4) A member of the Negotiation Forum loses his or her seat on the Forum if he or she is suspended, resigns, retires, is dismissed or is transferred to another unit.

(5) If a member loses his or her seat as member of the Negotiation Forum his or her alternate becomes a member in his or her place for the remainder of his or her term of office.

(6) An alternate member must attend meetings of the Negotiation Forum whenever the member that he or she represents is unable to do so and at any such meeting has all the powers that the member has.

(7) The election for members of the Negotiation Forum takes place on the day, places and during the hours that the election coordinator, after consultation with the Forum, determines and make known to the members of the Service.

(8) The election coordinator must -

- (a) make all the arrangements necessary; and
- (b) monitor and control the voting,

in order to ensure free and fair elections.

(9) Every member of a unit, having voted, must place his or her vote in a sealed ballot box set apart for that unit under which command the member resorts.

(10) Staff members of the Internal Audit Division of the Council must collect the sealed ballot boxes and bring it to the venue, and at the time, determined by the election coordinator and made known to members.

(11) The ballot boxes must be opened in the presence of the candidates for election that are present and the votes cast counted by the members of the said Internal Audit Division.

(12) Having counted the votes cast the members of the Internal Audit Division must announce -

- (a) the total number of votes casted;
- (b) the number of spoiled ballot papers;
- (c) the number of votes cast in favour of every candidate for election; and
- (d) per unit, the names of the candidate elected and the name of his or her alternate.

(13) The Internal Audit Division must within two working days thereafter confirm the announced results of the election by letter addressed to the Chief Executive Officer, the Head and to every candidate standing for election.

(14) The Negotiation Forum must, from among its members, elect a Chairperson who must preside at its meetings and, whenever the Chairperson is absent or unable to act at a particular

meeting, the Negotiation Forum must elect, from amongst its members present, a member to act as Chairperson and preside at such particular meeting.

(15) The majority of all the members of the Negotiation Forum constitute a quorum for any meeting of the Forum.

(16) If at a meeting of the Negotiation Forum no quorum is present the meeting must be adjourned for not less than a week, to a date not being a public holiday or a Sunday.

(17) The Negotiation Forum may make rules in connection with the convening and holding of, and procedures at, its meetings.

(18) The Council and the Negotiation Forum may freely and without duress enter into an agreement arranging any or all of the following matters -

- (a) which persons must represent the Council as employer during joint meetings and to what extent, if any, such persons can bind the Council;
- (b) the way in which to convene and hold, and the procedures to be followed at, joint meetings;
- (c) whether members of the Negotiation Forum and their elected alternate members by a Unit may, or may not, act as workplace representatives within that Unit, and if so what their benefits, rights, powers and duties are;
- (d) any other matter contained in the Regulations, these regulations, the Police Act, the Local Authorities Act and the Road Traffic and Transport Act and the regulations made there under that affects any member of the Service that the Council may agree to, but subject to such limitations the Council may decide upon;
- (e) dispute resolution where agreement cannot be reached;
- (f) the process to be followed, and the notice to be given, by a party desiring to amend any existing agreement; and
- (g) the process to be followed, and the notice to be given, by a party intending to cancel any existing agreement.

(19) The function of the Head under this regulation is to act as adviser to the Council and he or she is not eligible to be elected as a member, or alternate, of the Negotiation Forum.

(20) "Election Coordinator" in this regulation means a staff member that the Chief Executive Officer seconded under regulation 5(3) to arrange, manage and control the elections referred to in this regulation.

Political activities of members

- 52.** (1) Subject to subregulation (2), a member may not -
- (a) publicly or otherwise actively display or express support for or associate himself or herself with a political party, organization, movement or body;
 - (b) hold any post or office in a political party, organisation, movement or body;
 - (c) publicly wear any insignia or identification mark in respect of any political party, organisation, movement or body; or

- (d) in any manner further or prejudice the interests of any political party.
 - (e) in any way actively and publicly promote the candidature of a candidate for, or himself or herself become or agree to become a candidate in elections for the National Assembly, any regional council established under section 2 of the Regional Councils Act, 1992 (Act No. 22 of 1992), any local authority council for any local authority established under section 3 of the Local Authorities Act or a school board, beyond recording his or her vote or carrying out his or her functions and official duties in connection with such an election.
- (2) Subregulation (1) may not be construed as prohibiting a member who is not on duty and who is not in uniform from -
- (a) expressing views on any issue which is not directly related to the member's responsibilities as a member as long as the member does not -
 - (i) associate his or her position as a member with the views; or
 - (ii) represent the views as those of the Service;
 - (b) attending or participating in a public meeting, excluding, a congress, convention or other meeting of a political party or other organisation involved in political activity if such meeting is not open to the general public;
 - (c) exercising his or her right to vote; or
 - (d) engaging in any other political activity, except -
 - (i) soliciting or receiving funds for or on behalf of a political party or other organisation involved in political activity; or
 - (ii) political activity that places or is likely to place the member in a position of conflict of interest.
- (3) Despite subregulations (1) and (2), a member has the right to join a political party, organisation, movement, or a body that engages in political activities, of his or her choice.

Obedience

53. (1) Subject to subregulation (2), a member must obey any reasonable order or instruction given to him or her by a supervisor or a person who is competent to do so, but the member may not obey a patently unlawful order or instruction.

(2) If it is reasonable in the circumstances, a member may demand that an order or instruction referred to in subregulation (1) be recorded in writing before the member obeys the instructions.

(3) A member, after having obeyed an order or instructions referred to in subregulation (1), may demand that such an order or instruction is recorded in writing.

Prohibition to perform private work

54. (1) Subject to subregulation (2), a member may not -

- (a) perform or engage himself or herself to perform any work outside his or her employment in the Service; or

- (b) claim as of right additional remuneration in respect of any official duty or work which he or she is required by any competent authority to perform during normal working hours in addition to his or her official duties or work.

(2) Despite subregulation (1), the Chief Executive Officer, on written application by a member, and upon recommendation of the Head, may grant permission, subject to such conditions and for such period considered to be desirable in the interest of the Council, to the member to perform or engage himself or herself to perform any work outside the employment of the member in the Service, but the Chief Executive Officer may not grant the permission, unless -

- (a) the member discloses the full nature of such work;
- (b) the performance of or engagement in such work does not give rise to a conflict of interests in the performance of his or her official duties, is not detrimental to the interest of the Service, or does not contravene any other provision of these regulations; and
- (c) the permission to do private work is conditional thereto that it may be revoked on reasonable grounds at any time.

(3) If a member receives any remuneration, allowance, gratification or other reward in connection with the performance of his or her work in the Service, other than in accordance with these regulations or in contravention of subregulation (2)(b), such member must pay to the Council -

- (a) an amount equal to the amount of such remuneration, allowance, gratification, reward; or
- (b) if it does not consist of money, the value thereof, as determined by the Chief Executive Officer,

if he or she fails to do so, the Chief Executive Officer may recover it by way of legal proceedings or in such other manner as the Chief Executive Officer may think fit.

(4) If the Chief Executive Officer made a determination of any value as contemplated in subregulation (3), the member affected by that determination may in writing appeal to the Council against the determination of the Chief Executive Officer.

(5) If in the opinion of the Chief Executive Officer a member has received any remuneration, allowance, gratification or other reward as contemplated in subregulation (1)(b), and such remuneration, allowance, gratification or reward -

- (a) is still in the possession of the member possession or under the control of some other person on behalf of the member; or
- (b) has been deposited in any bank, post office savings bank or any building society or other financial institution in the name of the member or in the name of some other person on behalf of the member,

the Chief Executive Officer may in writing require such member or such other person or such bank, the post office or such building society or financial institution not to dispose thereof or, if it is money, to retain such sum of money, pending the outcome of any legal steps for the recovery of such remuneration, allowance or reward or the value thereof.

PART 6

MISCONDUCT AND GRIEVANCES

Misconduct

- 55.** (1) A member who -
- (a) contravenes any provision of these regulations, the Act, the Regulations, criminal law or any other law applicable to a member;
 - (b) sleeps on duty;
 - (c) is grossly discourteous to any person whilst on duty;
 - (d) is negligent or indolent in the discharge of his or her duties;
 - (e) absents himself or herself from duty without leave or valid cause;
 - (f) fails without valid cause to report for duty at a stipulated time at his or her station, place of employment or any other place appointed by his or her supervisor;
 - (g) knowing that he or she is unable to report for duty when required to do so fails to inform his or her supervisor thereof within a reasonable time;
 - (h) fails, without a valid cause, to appear at an inquiry whereby he or she has been duly subpoenaed or instructed to attend in terms of these regulations;
 - (i) contrary to any orders or instructions of a supervisor, goes off duty before being relieved or without having first obtained permission from his or her supervisor to do so;
 - (j) without proper authority, releases a prisoner or other person in custody or a person under questioning during an investigation, or willfully or negligently allows him or her to escape or to be released;
 - (k) uses unnecessary force or violence or threatens to use force or violence against any person, or otherwise ill-treats him or her;
 - (l) assaults another member or staff member, threatens him or her with violence, uses threatening or insulting language towards him or her resists him or her by word or action or adopts towards him or her disdainful, recalcitrant or insolent attitude;
 - (m) falsely slanders, imputes improper demeanour or misconduct to an Officer or Non Officer of a higher ranking;
 - (n) disobeys, disregards or makes willful default in carrying out any order given to him or her by his or her supervisor, if in any prosecution under this regulations or Council's Industrial Relation's Policy, it is prima facie proved that a member by word of conduct commit a misconduct in terms of subregulations (l), (m) and (n) it is presumed in absence of evidence to the contrary, that he or she commits insubordination;
 - (o) victimizes or treats a junior member, member or staff member in a tyrannical or oppressive manner;

- (p) borrows money from or through a member holding a lower rank;
- (q) fights or otherwise behaves in a riotous or an unseemingly manner;
- (r) intentionally causes an unnecessary disturbance, gives a false alarm or disseminates false information;
- (s) conducts himself or herself in a disgraceful, improper or unbecoming manner;
- (t) socializes or associates with or is in the company of a person who is under investigation with regard to the commission of a criminal offence;
- (u) takes an active part in any activity which is likely to interfere with the impartial discharge of his or her duties or which is likely to give rise to that impression amongst members of the public;
- (v) malingers, feigns or pretends to be ill, infirm, indisposed, injured or suffering from pain;
- (w) obtains or attempts to obtain exemption from duty by advancing a false or exaggerated excuse on the ground of illness, infirmity, indisposition, injury or pain;
- (x) willfully causes illness, infirmity, indisposition or pain or willfully maims or injures himself or herself or any other member, whether at the request of such member or not, or willfully causes himself or herself to be maimed or injured by any other person with the intention of rendering himself or herself or such other member unfit for duty or the performance of his or her functions;
- (y) as a patient in any hospital or nursing institution, willfully fails to obey any regulation or any lawful direction given by a member of the medical or nursing staff attached to such hospital or institution;
- (z) deserts the Service, refuses to serve in or carry out the functions of the Service or incites or persuades any other member to desert, refuse to serve in or to carry out the functions of the Service;
- (aa) knowingly and willfully receives, cares for, harbours or conceals a member who deserted or, without valid cause, absented himself or herself from duty or, knowing the whereabouts of such member, fails to notify his or her supervisor immediately or to do everything in his or her power to have him or her arrested;
- (ab) conspires with any other person to commit mutiny or to cause a mutiny, strike, riot or revolt;
- (ac) joins in any mutiny, strike, riot or revolt or incites any person to do so;
- (ad) while a mutiny, strike, riot or revolt takes place in his or her presence, fails to do everything in his or her power to suppress it;
- (ae) while knowing or suspecting any other person to be involved in any conspiracy to cause a mutiny, strike, riot or revolt or to have joined in it, fails to report all the facts which he or she knows immediately to his or her supervisor;
- (af) addresses any anonymous communication to a member of the Council, the Head, any other dignitary, a senior officer, a member or a staff member;

- (ag) makes a false accusation against any member or staff member or, during an investigation, disciplinary proceedings or inquiry makes a false statement or willfully suppresses or conceals material facts;
- (ah) withholds or unreasonably delays any complaint against or an adverse communication concerning another member;
- (ai) willfully refuses or neglects to discharge any lawful debt;
- (aj) without the permission of the Head, discloses, otherwise than in the discharge of his or her official duties, information gained by or conveyed to him or her as a result of his or her employment in the Service, or uses such information for any purpose other than for the discharge of his or her official duties, whether or not he or she discloses such information; or
- (ak) without the permission of the Head, discloses, otherwise than in the discharge of his or her official duties, removes or copies any information from any document or record of the Service or the Council; or
- (al) accepts or demands in return for the carrying out of or the failure to carry out his or her duties any gratification to which he or she is not entitled by virtue of his or her office, or fails to report immediately to his or her supervisor the offer of any such gratification, commission, fee or reward;
- (am) is under the influence of intoxicating liquor or stupefying drugs while he or she is on duty, and “on duty” includes any period during which the member has been placed on standby duty under regulation 30;
- (an) uses intoxicating liquor or stupefying drugs on duty, and “on duty” includes any period during which the member has been placed on standby duty under regulation 30;
- (ao) uses intoxicating liquor excessively or uses stupefying drugs without a prescription from a medical practitioner;
- (ap) while on duty and in uniform, enters any room or place being used for the manufacture, storage, sale or supply of intoxicating liquor, except in the performance of his or her duties;
- (aq) places himself or herself under an obligation to any dealer in intoxicating liquor or any barman or other person in the employ of any such dealer or barman where such obligation is likely to hamper him or her in the proper discharge of his or her duties;
- (ar) holds shares or interest in a business or close corporation or an unlisted company, the main object of which is the manufacture or supply of or trading in intoxicating liquor;
- (as) demands, solicits, receives or accepts any discount, commission, gift, fee, reward or other consideration or advantage, whether pecuniary or otherwise (except his or her official remuneration), in respect of the acquisition, purchase, sale or disposal of any supplies, arms, ammunition, accessories, transport, animals and other equipment or any other requisites of whatever nature, required for use in, or being the property of the Service or of the Council, a canteen, mess or any other institution of the Service or in the Council’s business;

- (at) wrongfully and unlawfully appropriates, withholds, abuses, makes unauthorized use of or willfully damages or negligently damages or loses any property including prescribed uniform, badges or clothing being part of the dress code of the Service, or being the property of the Council, including -
- (i) property issued to him or her or to another member at public expense for personal use in the execution of his or her or such other member's functions;
 - (ii) property in possession or under the control of the Council or for which the Council is responsible;
 - (iii) any property belonging to another member, a canteen, mess or any other institution of the Service, a prisoner or other person in custody; or
 - (iv) any exhibit in a criminal case, or property abandoned, lost or unclaimed and found or taken into safekeeping by a member or being in his or her possession;
- (au) subject to regulation 52(2) while on duty, knowingly and deliberately in public wears, exhibits or uses any badge, emblem, standard, colours, salute, greeting, distinctive gesture or device of any kind which associates him or her with any political party or any movement, organization, body or association having political objects;
- (av) subject to subregulation (2) of regulation 52 takes an active part in partisan party-political matters or associates himself or herself with the political activities, objects or matters of a political party, movement, organization, body or association referred to in subregulation (1) of that regulation;
- (aw) in any way actively and publicly promotes the candidature of a candidate for, or himself or herself becomes or agrees to become a candidate in elections for the National Assembly, any Regional Council established under section 2 of the Regional Councils Act, 1992 (Act No. 22 of 1992), any local authority council for any local authority established under section 3 of the Local Authorities Act, or a school board, beyond recording his or her vote or carrying out his or her functions and official duties in connection with an election;
- (ax) participates in the establishment of, or establishes, a trade union or becomes a member of a trade union;
- (ay) takes part in or associates with the activities, objects or matters of a trade union;
- (az) whilst on duty, knowingly and deliberately wears, exhibits or uses any badge, emblem, standard, colours, salute, greeting, distinctive gesture or device of any kind which associates him or her with such trade union;
- (ba) attempts to secure intervention from political or outside sources in relation to his or her own or a position for another member or conditions of employment or functions in the Service or the Council, but this paragraph may not be construed as prohibiting a member from approaching the office of the Ombudsman or a Court of law;
- (bb) with intent to deceive or prejudice any person, suppresses, conceals, withholds, defaces, alters, destroys or does away, whether wholly or partly, with any report, return, register, book, record, form, claim, letter or any other document in relation to the Service or the Council whether it relates to his or her functions and duties or not, or obliterates anything therein or makes, causes or allows to be made or connives at

- the making of any false, misleading, incomplete or inaccurate statement, record or entry therein;
- (bc) with a view to obtain any privilege or advantage in relation to his or her official position, functions or to causing prejudice or injury to the Council, a staff member, the Service or any other member of the Service, makes a false or incorrect statement, knowing it to be false or incorrect;
 - (bd) after having been duly ordered to be present at a specified time and place as the accused, defendant or witness at disciplinary proceedings or a board of inquiry or any other inquiry under these regulations, the Act or the Local Authorities Act -
 - (i) fails without just cause to appear at the time and place specified;
 - (ii) if he or she is present, refuses to take an oath or to make an affirmation administered to him or her or refuses or fails to answer all questions which have lawfully been put to him or her;
 - (iii) refuses or fails to produce a document or thing which he or she has lawfully been required to produce;
 - (iv) having been duly sworn in or having made a solemn affirmation gives a false answer to any question put to him or her knowing such answer to be false is liable to the penalty that may be imposed for perjury;
 - (v) making a false statement knowing such statement to be false is liable to the penalty that may be imposed for perjury;
 - (be) performs, causes or permits to be performed or connives at, any act prejudicial to the administration, discipline or efficiency of the Service or the operation of the Council;
 - (bf) while on duty, on the grounds of another person's colour, sexual orientation race, nationality or ethnic or national origin, willfully discriminates against such person or treats such person improperly;
 - (bg) who in a court of law is convicted of a criminal offence for which he or she is sentenced to imprisonment without the option of a fine;
 - (bh) damages or loses a fire-arm under his or her control or allows an unauthorised person to handle or gain possession of such fire-arm;
 - (bi) has an attitude of insolence, or low productivity, poor work performance or is unable, despite reasonable training and warnings, to materially adapt to, or comply with the operational guidelines or the performance standards of the Service;
 - (bj) contravening the provisions of section 5 of the Labour Act in that he or she discriminates in employment or performs sexual harassment as defined in that section;
 - (bk) promotes or holds any interest (whether his or her own or any other persons) which seriously conflict with that of the Council or, that of the Service;
 - (bl) represents any other person at any tribunal in proceedings to which the Council is a party whether against the Council or otherwise, including , conciliation, arbitration and any court proceedings.

- (bm) carries on cellular telephone conversations whilst driving a motor vehicle;
- (bn) fails to wear a seatbelt whilst in a moving motor vehicle;
- (bo) has been appointed as an authorized officer and who contravenes any provision of regulation 9(2) of the Road Traffic and Transport Regulations promulgated under Government Notice No. 53 of 30 March 2001;
- (bp) owns, or has a direct or indirect interest in, a shebeen, taxi or tow-in service;
- (bq) fails to sign in when coming on duty or fails to sign off when going of duty;
- (br) conceals from, or fails to make known to, his or her supervisor of any possible misconduct by another member or staff member; or
- (bs) fails, neglects or refuses to timeously charge another member with misconduct as required by regulation 20,

commits an act of misconduct and is liable to a penalty contemplated in regulation 9 or 20.

(2) Despite any provision to the contrary in these regulations, no time limits imposed within which to charge a member with misconduct may operate against the Council where the person responsible to institute such disciplinary inquiry fails, neglects or refuses to do so timeously.

Grievances

56. (1) A member who has a grievance may reduce his or her grievance to writing in, as near as possible, the format of Form 2 in Annexure 6 and if the member is -

- (a) not an Officer, he or she must hand the Grievance Form to his or her unit commander, who -
 - (i) discuss the grievance with the aggrieved member as soon as possible, but not later than seven working days after the receipt of the grievance;
 - (ii) if at the close of the discussion finds that there is -
 - (aa) no grievance, must inform the member of his or her conclusion and the reason thereof;
 - (ab) a valid grievance, must try and resolve the grievance as far as it is within his or her powers to do so and inform the member of the steps that he or she intends to take to solve the grievance;
 - (ac) a valid grievance, but it is outside his or her powers to solve the grievance, must inform the member of his or her conclusion and the reasons therefore and forward the grievance within seven working days to the Head for a solution.
- (b) an Officer, he or she must hand the Grievance Form to the Head who -
 - (i) must discuss the grievance with the aggrieved member as soon as possible, but not later than seven working days after the receipt of the grievance; and
 - (ii) if at the close of the discussion finds that there is -

- (aa) no grievance, must inform the member of his or her conclusion and the reason thereof; or
 - (ab) a valid grievance, must try and resolve the grievance as far as it is within his or her powers to do so and inform the member of the steps that he or she intends to take to solve the grievance; or
 - (ac) a valid grievance, but it is outside his or her powers to solve the grievance, must inform the member of his or her conclusion and the reasons therefore and forward the grievance within seven working days to the section responsible for internal investigation for recording and processing purposes and refer it to the Chief Executive Officer to try and solve the grievance;
- (c) the Head, he or she must hand it to the Chief Executive Officer who -
- (i) must discuss the grievance with the Head as soon as possible, but not later than seven working days after the receipt of the grievance; and
 - (ii) if at the close of the discussion finds that there is -
 - (aa) no grievance, must inform the member of his or her conclusion and the reason thereof;
 - (bb) a valid grievance, must try and resolve the grievance as far as it is within his or her powers to do so and inform the member of the steps that he or she intends to take to solve the grievance;
 - (ac) a valid grievance, but it is outside his or her powers to solve the grievance, must inform the member of his or her conclusion and the reasons therefore and forward the grievance within seven working days to the section responsible for internal investigation for recording and processing purposes and submission to the Committee referred to in subregulation (2) hereof to find a solution.

(2) If the grievance of the member in subregulation (1)(a), (b) or (c) is not solved at the level of the Head or the Chief Executive Officer, respectively, the Chief Executive Officer must establish a committee consisting of three members of the Service Advisory Committee referred to in regulation 3 to investigate the grievance and find a solution.

(3) Upon the completion of the investigation, the Committee must make recommendations to the Chief Executive Officer or Head for consideration and implementation.

(4) An aggrieved member who is dissatisfied with the outcome of the grievance may note his or her dissatisfaction against the result of the consideration of his or her grievance in the form of Form 4 in Annexure 6, and request the reconsideration of his or her grievance.

Conduct sheet

57. (1) The Council must maintain a conduct sheet in respect of every member in which all convictions for misconduct, unless the Chief Executive Officer in general determines otherwise, must be recorded.

(2) If, for a period of three years since the date the last conviction was recorded on a member's conduct sheet no further conviction is recorded thereon, all entries must be deleted, subject to subregulation (3).

(3) An entry in connection with a conviction in respect of which the sentence or part thereof has been suspended must be deleted as soon as all the conditions of such suspension have been complied with.

(4) Despite subregulation (2) a conviction which has already been deleted may be taken into account if the present charge of misconduct and the deleted convictions relates to repeated misconduct of the same, or a similar, nature over time.

PART 7

LEGAL AID: CRIMINAL AND CIVIL CASES

Legal aid in criminal cases

58. (1) If a member, in the course of his or her duty, commits an act or omits to do an act and the commission or omission amounts to a criminal offence for which the member is prosecuted, the Chief Executive Officer, subject to subregulation (2), must arrange a legal representation for the member at the cost of the Council.

(2) A member referred to in subregulation (1) -

(a) as soon as possible after his or her arrest or receipt of summons, through the Head or Deputy Head or Senior Superintendent, must inform the Chief Executive Officer in writing of the arrest and the charge or summons and the date of appearance in court;

(b) subject to subregulation (6), remains personally liable for any penalty that the court may impose on him or her as a result of a conviction;

(c) if he or she elects to be legally represented by a legal practitioner other than the legal practitioner of the Council, his or her legal costs may not be covered by the Council; and

(d) except with the written permission of the Council's legal practitioner, may not make any acknowledgement of guilt in respect of any commission or omission.

(3) The Chief Executive Officer, after the conclusion of the trial of a member referred to in subregulation (1), must prepare a report which covers the cause of the prosecution and the findings of the trial court and submit that report to the management committee.

(4) The member referred to in subregulation (1), has the right of access to a report referred to in subregulation (3) before the report is submitted to the Management Committee.

(5) If the report referred to in subregulation (3) reveals that the member knowingly or negligently exceeded his or her authority or the scope of his or her duty, or was under the influence of alcohol or drugs at the time of the commission or omission of the act which gave rise to the prosecution, the member, must refund the Council the amount of such costs, if the Council has covered his or her legal costs.

(6) If a member is convicted of a criminal offence as referred to in subregulation (1), the Council, after considering the report referred to in subregulation (3), may in its discretion pay, wholly or in part or not at all, any fine imposed on the member as a result of the conviction.

Legal aid in civil cases

59. (1) If a member, in the course of his or her duty, commits an act or omits to do an act, and the commission or omission results in a civil claim against the member in his or her

official or personal capacity, the Chief Executive Officer, subject to subregulation (2), may arrange for legal representation for the member at the cost of the Council.

- (2) A member referred to in subregulation (1) -
- (a) may not admit liability, offer or promise any payment, offer or promise indemnity in respect of the commission or omission of the act, except with the written permission of the legal practitioner of the Council;
 - (b) must in writing inform the Head of the commission or omission of the act as soon as possible after the date of the commission or omission of the act, or the date on which the summons is served on him or her; and
 - (c) must furnish the Chief Executive Officer with all information in respect of the commission or omission of the act as accurately as possible.

(3) If the Chief Executive Officer is reasonably satisfied or there is evidence to prove that the member referred to in subregulation (1) knowingly exceeded his or her scope of duty, or was at the time of the commission or omission of the act under the influence of alcohol or drugs, the Chief Executive Officer, after having heard representations from the member, may refuse to render any legal assistance to that member and may deny any responsibility.

(4) If a member, in the course of his or her duty, suffers any injury or damage as a result of the action or omission of another person, the Chief Executive Officer may arrange for that member to be legally represented by the legal practitioner of the Council at the cost of the Council, if the member wishes to institute a civil claim for damages or injury suffered, but if the member is successful in his or her claim and the member has been awarded costs, he or she must reimburse the Council the recovered cost of legal representation.

(5) If a member tenders his or her letter of resignation or is in process of being dismissed from the Service by the Council before the finalisation of a pending court case, the Council may stop payment of any further legal cost.

Non-application of regulations 58 and 59

- 60.** Regulations 58 and 59 do not apply -
- (a) if the commission or omission of an act by a member giving rise to a criminal charge amounts to driving a vehicle under the influence of alcohol or intoxicating drugs and such driving results in an accident or causes other damage; or
 - (b) if the State or Council institutes criminal proceedings or a civil claim or disciplinary action against a member as a result of a commission or omission of an act referred to in regulation 58(1) or 59(1).

PART 8

GENERAL PROVISIONS

Limitation of liabilities and legal proceedings

61. (1) A member is not personally liable for any damage or injury caused to any person by such member as a result of any act done or omitted to be done in good faith under these regulations, unless such damage or injury is due to the negligence of such member or failure to comply with the Act, the Regulations or these regulations, or willful act or omission.

(2) Legal proceedings in respect of any alleged act performed under or in terms of the Act, Regulations or these regulations or any other law or an alleged failure to do anything which should have been done in terms or under the Act, the Regulations, these regulations or any other law by a member must be instituted against the Council, subject to the Limitation of Legal Proceedings (Provincial and Local Authorities) Act, 1970 (Act No. 94 of 1970).

Estimates

62. (1) The Head, in respect of each financial year, must cause to be prepared and submit operating and capital estimates of income and expenditure to the Council that shows, separately, the amounts that is required -

- (a) to maintain the Service and provide it with equipment and facilities; and
- (b) to pay the operations expenses of the Service.

(2) The format of the estimates and the timetable for the submission of the estimates must be as determined by the Council.

(3) When reviewing the estimates submitted under subregulation (1), the Council must establish an overall budget for the Service for the purposes referred to in subregulation (1).

Prohibition on certain dealings

63. A member may not lend to another person any means of transport or equipment which the member is required to keep and possess in the performance of his or her duties, without the permission of the person under whose command the member serves.

Missing members

64. (1) If a member is missing and the Chief Executive Officer is satisfied that his or her absence arose during or from the performance of his or her duties and functions in terms of these regulations, such member is, for all purposes, deemed to be still in the employment of the Service from the day on which such absence commenced until the day on which -

- (a) he or she again reports for duty;
- (b) in the reasonable opinion of the Chief Executive Officer, he or she should have reported for duty; or
- (c) a competent court issued an order whereby the death of such member is presumed.

(2) Subject to subregulation (4), the wages and allowances and any severance payment becoming payable as the result of an order referred to in subregulation (1)(c) accruing to a member during his or her absence contemplated in subregulation (1) must be paid -

- (a) to his or her spouse;
- (b) if he or she has no spouse, to his or her other dependents; or
- (c) to any person who, in the opinion of the Chief Executive Officer, is competent to receive and administer such wages and allowances on behalf of the spouse or such other dependents.

(3) Payment of any wages and allowances in terms of subregulation (2) is, for all purposes deemed to be payment thereof to the member concerned, and an amount so paid is not recoverable by the Council from any person.

(4) Despite subregulation (2), the Chief Executive Officer may direct that only a portion of the wages and allowances of a member may be paid in terms of that subregulation, or that no portion thereof may be so paid.

Access to Namibian Police facilities

65. (1) The Service or a member may use a facility of the Namibian Police for -

- (a) the detention of suspected criminals;
- (b) the keeping of exhibits, found properties and other items confiscated pending investigations or a court case;
- (c) any matter which may be agreed to by the Council and the Namibian Police.

(2) A member may have access to the registers and records of the Namibian Police for recording purposes to an extent agreed between the Council and the Namibian Police.

Reward for extraordinary diligence or devotion

66. The Chief Executive Officer, with the approval of the Council, may honour or award to any person who is or was a member, for extraordinary diligence or devotion in the performance of his or her duties as such member, such honour, monetary or other reward as he or she considers appropriate under the circumstances.

Establishment of decorations and medals for members

67. The Council, on the recommendation of the Head under the directives of the Chief Executive Officer, may establish and introduce awards (including a posthumous award), decorations and medals, as well as bars, clasps and ribbons in respect of such awards, decorations and medals, which may be awarded by the Council, subject to such conditions as the Council may determine, to -

- (a) any person who is or was a member in respect of his or her services as such member; or
- (b) any person who has rendered exceptional services to the Service.

Criminal statistics

68. The Head must, at such times and in such form as the Council may direct, submit to the Chief Executive Officer such statistics with respect to offences, offenders and the state of crime prevention as the Council may require.

Savings

69. Despite the repeal of the Windhoek Municipal Police Services Regulations published under General Notice No. 296 of 01 December 2004, any proclamation, regulation, notice, order, prohibition, authority, appointment, permission, information, document, or anything made, issued, imposed, granted, given, or done and any other action taken under any provision, in so far as it is not inconsistent with any provision of these regulations, is deemed to have been made, issued, imposed, granted, given, or taken under the corresponding or related provision of these regulations.

ANNEXURE 1

RANKS IN SERVICE
(Regulation 6(3))

The Ranks in the Service are:

(a) Officers

- (i) Chief
- (ii) Deputy Chief
- (iii) Senior Superintendent
- (iv) Superintendent

(b) Non officers

- (i) Assistant Superintendent
- (ii) Sergeant
- (iii) Constable
- (iv) Cadet Constable

ANNEXURE 2

UNIFORMS IN SERVICE

(Regulation 6(7))

The uniforms in the Service are:

(a) Caps**(i) Chief:**

Type: Police cap with blue/grey material crown, quarters and piping with leather cloth sweat band
 Colour: Traffic blue – light blue/grey mixture to match 4750C of CKS 129
 Embroidery: 4 gold oak leaf embroidery onto black plastic peak
 Cap band: Gold oak leaf braid fixed cap band
 Chinstrap: Black plastic chinstrap
 Buttons: Black plastic buttons
 Eyelettes: 2 x Eyelettes to take badge
 Material: Same as for tunics and trousers

(ii) Deputy Chief:

Type: Police cap with blue/grey material crown, quarters and piping with leather cloth sweat band
 Colour: Traffic blue – light blue/grey mixture to match 4750C of CKS 129
 Embroidery: 3 Gold oak leaf embroidery onto black plastic peak
 Cap band: Gold oak leaf braid fixed cap band
 Chinstrap: Black plastic chinstrap
 Buttons: Black plastic buttons
 Eyelettes: 2 x Eyelettes to take badge
 Material: Same as for tunics and trousers

(iii) Senior Superintendent:

Type: Police cap with blue/grey material crown, quarters and piping with leather cloth sweat band
 Colour: Traffic blue – light blue/grey mixture to match 4750C of CKS 129
 Embroidery: 2 Gold oak leaf embroidery onto black plastic peak
 Cap band: Gold oak leaf braid fixed cap band
 Chinstrap: Black plastic chinstrap
 Buttons: Black plastic buttons
 Eyelettes: 2 x Eyelettes to take badge
 Material: Same as for tunics and trousers

(iv) Superintendent:

Type: Police cap with blue/grey material crown, quarters and piping with leather cloth sweat band
 Colour: Traffic blue – light blue/grey mixture to match 4750C of CKS 129
 Embroidery: 1 Gold oak leaf embroidery onto black plastic peak
 Cap band: Gold oak leaf braid loose cap band
 Chinstrap: Black plastic chinstrap
 Buttons: Black plastic buttons
 Eyelettes: 2 x Eyelettes to take badge
 Material: Same as for tunics and trousers

(v) Non officers:

Type:	Police cap with blue/grey material crown, quarters and piping with leather cloth sweat band
Colour:	Traffic blue – light blue/grey mixture to match 4750C of CKS 129
Embroidery:	None
Cap band:	Traffic Royal blue fixed cap band
Chinstrap:	Black plastic chinstrap
Buttons:	Black plastic buttons
Eyelettes:	2 x Eyelettes to take badge
Material:	Same as for tunics and trousers

(b) Caps (Field Dress)**(i) Chief:**

Type:	Baseball type with plastic fastening strip at the back and sufficient ventilation gauze on both sides without flap at the back
Cap badge:	Official cap badge of the City Police embroiled
Embroidery:	4 Flowers gold embroidery onto peak of cap
Colour:	Air force blue

(ii) Deputy Chief:

Type:	Baseball type with plastic fastening strip at the back and sufficient ventilation gauze on both sides without flap at the back.
Cap badge:	Official cap badge of the City Police embroiled
Embroidery:	3 Flowers gold embroidery onto peak of cap
Colour:	Air force blue

(iii) Senior Superintendent:

Type:	Baseball type with plastic fastening strip at the back and sufficient ventilation gauze on both sides without flap at the back.
Cap badge:	Official cap badge of the City Police embroiled
Embroidery:	2 Flowers gold embroidery onto peak of cap
Colour:	Air force blue

(iv) Superintendent:

Type:	Baseball type with plastic fastening strip at the back and sufficient ventilation gauze on both sides without flap at the back.
Cap badge:	Official cap badge of the City Police embroiled
Embroidery:	1 Flowers gold embroidery onto peak of cap
Colour:	Air force blue

(v) Non officers:

Type:	Baseball type with plastic fastening strip at the back and sufficient ventilation gauze on both sides without flap at the back.
Cap badge:	Official cap badge of the City Police embroiled
Embroidery:	None
Colour:	Air force blue

(c) Ladies Hats**(i) Chief:**

Type: Felted, welted edge with leather sweat band
 Eyelettes: 2 x Eyelet's to take badge
 Embroidery: 4 Flowers gold embroidery onto appliqué
 Hat band: Gold oak leaf braid loose cap band
 Colour: Traffic colour to match traffic blue uniforms
 Material: Felt and must be water repellent

(ii) Deputy Chief:

Type: Felted, welted edge with leather sweat band
 Eyelettes: 2 x Eyelet's to take badge
 Embroidery: 3 Flowers gold embroidery onto appliqué
 Hat band: Gold oak leaf braid loose cap band
 Colour: Traffic colour to match traffic blue uniforms
 Material: Felt and must be water repellent

(iii) Senior Superintendent:

Type: Felted, welted edge with leather sweat band
 Eyelettes: 2 x Eyelet's to take badge
 Embroidery: 2 Flowers gold embroidery onto appliqué
 Hat band: Gold oak leaf braid loose cap band
 Colour: Traffic colour to match traffic blue uniforms
 Material: Felt and must be water repellent

(iv) Superintendent:

Type: Felted, welted edge with leather sweat band
 Eyelettes: 2 x Eyelet's to take badge
 Embroidery: 1 Flower gold embroidery onto appliqué
 Hat band: Gold oak leaf braid loose cap band
 Colour: Traffic colour to match traffic blue uniforms
 Material: Felt and must be water repellent

(v) Police Non officers:

Type: Felted, welted edge with leather sweat band
 Eyelettes: 2 x Eyelet's to take badge
 Embroidery: None
 Hat band: Royal blue loose ribbon hat band
 Colour: Traffic colour to match traffic blue uniforms
 Material: Felt and must be water repellent

(d) Ladies Tricon:**(i) Chief:**

Type: To military specifications with leather sweat band
 Eyelettes: 2 x Eyelet's to take badge
 Embroidery: 4 Flowers gold embroidery onto appliqué
 Hat band: Gold oak leaf braid loose cap band

Colour: Traffic colour to match traffic blue uniforms
 Material: Felt and must be water repellant

(ii) Deputy Chief:

Type: To military specifications with leather sweat band
 Eyelettes: 2 x Eyelet's to take badge
 Embroidery: 3 Flowers gold embroidery onto appliqué
 Hat band: Gold oak leaf braid loose cap band
 Colour: Traffic colour to match traffic blue uniforms
 Material: Felt and must be water repellant

(iii) Senior Superintendent:

Type: To military specifications with leather sweat band
 Eyelettes: 2 x Eyelet's to take badge
 Embroidery: 2 Flowers gold embroidery onto appliqué
 Hat band: Gold oak leaf braid loose cap band
 Colour: Traffic colour to match traffic blue uniforms
 Material: Felt and must be water repellant

(iv) Superintendent:

Type: To military specifications with leather sweat band
 Eyelettes: 2 x Eyelet's to take badge
 Embroidery: 1 Flower gold embroidery onto appliqué
 Hat band: Gold oak leaf braid loose cap band
 Colour: Traffic colour to match traffic blue uniforms
 Material: Felt and must be water repellant

(v) Non officers:

Type: To military specifications with leather sweat band
 Eyelettes: 2 x Eyelet's to take badge
 Embroidery: None
 Hat band: Royal blue loose ribbon hat band
 Colour: Traffic colour to match traffic blue uniforms
 Material: Felt and must be water repellant

(e) Cap or hat cover:

Description: Must fit over cap or hat of members to protect cap or hat and must be waterproof
 Material: Plastic or any other durable transparent material

(f) Shirts long sleeves:

Description/cut: Long sleeves with shoulder straps, two pockets with flaps with Velcro strips without super-crease
 Material: 65% Polyester 35% Cotton
 Colour: Traffic blue colour (Mazarin Blue to match CKS 300/2 of CKS 129)

(g) Shirts short sleeve:

Description/cut: Blue glad neck short sleeved with shoulder straps, two pockets with flaps with Velcro strips and with super-crease

Material: 65% Polyester 35% Cotton
 Colour: Traffic blue colour (Mazarin Blue to match CKS 300/2 of CKS 129)

(h) Shirts short sleeve - field dress:

Description/cut: Short sleeved shirt with shoulder straps, two pockets with flaps with Velcro strips and without super-crease
 Material: Field dress material
 Shoulder Flashes: Iron on
 Breast Badge: Breast badge with Namibian Flag embroidered and ironed on
 Colour: Air force blue

(i) Ties:

Description/cut: To match CKS 35
 Material: Wool and Polyester
 Colour: Royal blue

(j) Ties (clip on):

Description/cut: Clip on type (Not elastic band)
 Material: Wool and Polyester
 Colour: Royal blue

(k) Ties - ladies:

Description/cut: Bow tie Sinatra with golden pin
 Material: Wool and Polyester
 Colour: Royal blue

(l) Trousers male:

Description/cut: The trousers have a plain front, two slanted side pockets, one fob cash pocket, one jetted hip pocket, 67 mm long belt loops, zip fly and plain buttons'. The pockets are be made of polyester/cotton material and the waistband have a rubberized non-slip insert
 Material: 55% Trevira 45% Wool
 Colour: Traffic Blue (Blue/grey mixture to match 4750 C of CKS 129)

(m) Trousers ceremonial

(i) Chief:

Type: As per military/police specifications with metal zip and with 70 mm belt loops
 Colour: Traffic blue – blue/grey mixture to match 4750C of CKS 129
 Embroidery: 25 mm Gold stripe onto the outside leg
 Material: 55% Trevira 45% Wool

(ii) Deputy Chief:

Type: As per military or police specifications with metal zip and with 70 mm belt loops
 Colour: Traffic blue – blue/grey mixture to match 4750C of CKS 129
 Embroidery: 20 mm Gold stripe onto the outside leg
 Material: 55% Trevira 45% Wool

(iii) Senior Superintendent:

Type: As per military/police specifications with metal zip and with 70 mm belt loops
 Colour: Traffic blue – blue/grey mixture to match 4750C of CKS 129
 Embroidery: 15 mm Gold stripe onto the outside leg
 Material: 55% Trevira 45% Wool

(iv) Superintendent:

Type: As per military or police specifications with metal zip and with 70 mm belt loops
 Colour: Traffic blue – blue/grey mixture to match 4750C of CKS 129
 Embroidery: 10 mm Gold stripe onto the outside leg
 Material: 55% Trevira 45% Wool

(v) Non officers:

Type: As per military/police specifications with metal zip and with 70 mm belt loops
 Colour: Traffic blue – blue/grey mixture to match 4750C of CKS 129
 Embroidery: None
 Material: 55% Trevira 45% Wool

(n) Trousers field dress

Description/cut: The trousers have two slanted side pockets, one fob cash pocket, one jetted hip pocket, 67 mm long belt loops, with patch pocket on the leg with a metal zip. The pockets are made of polyester/cotton material and the waistbands have a rubberized non-slip insert
 Material: Field dress material
 Colour: Air Force Blue

(o) Ladies trousers (slacks)

Description/cut: The slacks have a plain front, two slanted self material side pockets and a waistband with belt loops measuring 70 mm. The fly closes by means of a nylon spiral zip. The waistband is elastic from the side seam to about 90 mm from sewn onto the inside of the waistband. All stress points are be bar tacked throughout. All garments the side seam. The legs are plain with blind stitched bottoms. The pockets are made of self-material and are over locked and safety stitched. The slax have a 45 mm topstitched waistband with 70 mm belt loops. The front is with finished stitched bottoms.
 Material: 55% Trevira 45% Wool
 Fabric: Polyester/wool plain weave
 Colour: Traffic Blue (Blue/grey mixture to match 4750 C of CKS 129)

(p) Ladies skirts:

Description/cut: To comply with military or police specification and must be lined with 70 mm belt loops
 Material: 55% Trevira 45% Wool
 Colour: Traffic Blue (Blue/grey mixture to match 4750 C of CKS 129)

(q) Socks:

Material: 70% Wool 30% Nylon
 Colour: Traffic Blue or as close as possible

(r) Pantyhose:

Description/cut: Cameo – Full length and Cameo Knee Hi's
 Material: Soft'n silky with gusset
 Colour: French grey

(s) Shoes and boots:**(i) Ladies court shoes:**

Description/cut: Type green cross
 Colour: Black

(ii) Men shoes –Barker (Code 5957):

Description/cut: Military or Police type
 Colour: Black

(iii) Special forces combat boots (Magnum):

Description/cut: Canvas and leather boot with non-slip sole
 Colour: Black

(t) Tunics-single breasted

Description/cut: To comply with military or police specification with shoulder straps, four pockets and flaps, 2 metal belt hooks and sleeves for three buttons
 Material: 55% Treveria 45 % wool
 Colour: Traffic blue (Blue/grey mixture to match 4570 C of CKS 129)

(u) Jersey

Description/cut: Ribbed with V-neck, shoulder straps and elbow patches
 Material: Acrylic
 Colour: Traffic blue (Blue/grey mixture to match 4570 C of CKS 129)

(v) Ladies jacket - single breasted

Description/cut: To comply with military or police specification – lined with shoulder straps, two pockets and flaps, 2 metal belt hooks and sleeves for three buttons
 Material: 55% Treveria 45 % wool
 Colour: Traffic blue (Blue/grey mixture to match 4570 C of CKS 129)

(w) Ladies short sleeves jacket- for office wear

Description/cut: To comply with military or police specification – lined with shoulder straps, two pockets and flaps
 Material: 55% Treveria 45 % wool
 Colour: Traffic blue (Blue/grey mixture to match 4570 C of CKS 129)

(x) Coat – Kenny type

Description/cut: Short padded jacket – separate zip front with press-studd closure leading to double-collar construction with two pockets with inverted pleats and envelope flaps, two straight side pockets, shoulder straps for epaulettes, elasticated waistband and cuffs and must be waterproof if possible and allow easy access to a side arm

Colour: Air force blue (or as close as possible)

(y) Jacket 6 in 1 enforcer or freezer jacket

Description/cut: Short padded jacket – separate zip front with press-studd closure leading to double-collar construction with two pockets with inverted pleats and envelope flaps, two straight side pockets, shoulder straps for epaulettes, elasticated waistband and cuffs and must be waterproof if possible and allow easy access to a side arm

Material: Outer material nylon K Tech.

Colour: Traffic blue

(z) Lanyards**(i) Daily wear:**

Description/cut: Non officers – Single plaited
Officers - Double plaited

Material: Nylon.

Colour: Non officers - Royal blue
Officers - Royal blue/Yellow stripped

(ii) Ceremonial:

Description/cut: Double plaited - Flat

Material: Nylon.

Colour: Royal blue

(aa) Epaulettes**(i) Without ranks:**

Description/cut:

Material: Melton cloth

Colour: Royal blue

(ii) With ranks:

Description/cut: Stiffened top side round

Material: Melton cloth

Colour: Royal blue

(ab) Gauntlets for motor cycle riders

Description/cut: Lined with white retro-reflective cuffs

Material: Leather

Colour: Black

(ac) Gloves

Description/cut: Cloth type
 Material: Cotton/Polyester
 Colour: White

(ac) Gloves (officers)

Description/cut: Thin leather without lining
 Material: Leather
 Colour: Black

(ad) Gloves (officers)

Description/cut: Thin leather with lining
 Material: Leather
 Colour: Black

(ae) Vest -day-glo signal waist coats

Description/cut: The wording "CITY POLICE" must be written on the front and back of the vest with zip on sleeves, and shoulder straps
 Material: Level three high visibility reflecting Day-Glo
 Colour: Orange/lime/silver

(af) Belts

Description/cut: 55 mm with solid brass or zinc/alloy gold plated oval adjustable or pull through pin buckle. Official cap badge fitted on buckle – partially sunked. Plain with official cap badge embossed ±10 – 11 cm apart on belt measured from the center to center.
 Material: Leather
 Colour: black

(ag) Belts

Description/cut: 55 mm with solid brass buckle – basket weave. Type border patrol
 Material: Leather
 Colour: black

(ah) Belts –“Sam Brown”

Description/cut: 55 mm with solid brass buckle and as per Military or Police specifications
 Material: Leather
 Colour: black

(ai) Belts -canvas

Description/cut: 55 mm Canvas material to fit combat trousers
 Material: Canvas
 Colour: black

(aj) American police gun rig

Description/cut: Basket weave – adjustable type buckle to allow for different sizes. Complete with handcuff pouch, baton holder, gun holster, magazine pouch, belt with brass buckle and belt clips. The gun holster should be of the hip type (shado) for 9 mm CZ pistol

Material: Leather

Colour: Black

(ak) Slingbag with adjustable shoulder strap

Description/cut: The shape and design of the handbag conforms to the shape for the needs of the City Police. The specification covers the requirements for sling bags with adjustable shoulder straps for use of female members of the City Police.

Material: Outer material to be printed fabric- backed PVC of thickness 1 – 1.5 mm and that complies with the relevant requirements of SABS 1298. The lining must be of an acceptable match to color black. Fittings, metal components as well as threads and stitching comply with the relevant requirements of SABS 1298

Applicable standards: CKS 129 Color for textiles and SABS 1298 Ladies Fashion Handbag.

Colour: Black

(al) Rainsuit

Description/cut: Consist of jacket and trouser:

(i) Jacket:

Must be waterproof, breathable, wind – resistant with shoulder straps. Design/ material must suit the needs of a motorcyclist – must have reflective piping across the front and back and along the sleeves of the garment. “City Police” wording on the back of the jacket and royal blue reflective tape and reflective stripe on the arms

(ii) Trouser:

A trouser must be a pull-on style elasticized waist with a draw cord. There are adjustable Velcro tabs at the bottom of the legs and 50 mm royal blue/silver reflective stripe around both legs at the bottom of the legs below the knees

Material: Good quality – waterproof and breathable and polyurethane coating

Fabric performance: 100% Polyester Polar Fleece

Colour: Traffic blue

(am) Baton-Tonpha Type

Description/cut: Minimum length of 50 cm

Material:

Colour: Black

(an) Handcuffs

Description/cut: All parts of the handcuffs must be fabricated of stainless steel. Each handcuff must have a double lock mechanism. The handcuff must

- lock when it is applied to the wrist and when the double locking device is pressed it must prevent the jaw from travelling in either direction. The mechanism must be released by the use of the key.
Two keys to be supplied with handcuff
Material: Stainless steel
Colour:
- (ao) Cufflinks**
- Description/cut: Cufflinks with the current worn City Police insignia as emblem
Material: 9 ct gold
Colour: Yellow
- (ap) Tie pin**
- Description/cut: Tie pin with the current worn City Police insignia as emblem
Material: 9 ct gold
Colour: Yellow
- (aq) Knitted gholfshirt**
- Description/cut: Open sleeve with three buttons, left sided pocket and official insignia printed onto it. On the back the wording "City Police" (Navy blue) is to be printed in half circular fashion.
Material: Cotton
Colour: Light blue
- (ar) PT shorts**
- Description/cut: Elasticized waistband with drawstring and two pockets
Material: Cotton
Colour: Navy blue
- (as) Running shoes**
- Description/cut: Compressed foam sole with build up inner
Material:
Colour: White
- (at) Berets**
- Description: All sizes
Material: Wool
Colour: Blue/Grey mix

ANNEXURE 3

RANK AND UNIFORM INSIGNIAS OF SERVICE
(Regulation 6(7))

Rank Insignias in the Service(1) **Officers**(a) **Chief:**

- (i) Cap or pet with embroiled peak with 4 golden leaves



- (ii) Two georgettes with golden corn plant with four leaves



- (iii) One golden wreath, one golden star and one sword with baton wreath 10mm from the bottom and 15mm apart towards the top

(b) **Deputy Chief**

- (i) Cap/pet with embroiled peak with 3 golden leaves



- (ii) Two georgettes with golden corn plant with three leaves



- (iii) Three golden Stars with one golden wreath with the first Star 10mm from the bottom and 15mm apart towards the top.

(c) **Senior Superintendent:**

- (i) Cap/pet with embroiled peak with 2 golden leaves



- (ii) Two georgettes with golden corn plant with two leaves 
- (iii) Two golden star with golden wreath 15 mm from the bottom and 15 mm apart to the top of a blue epaulette 
- (d) **Superintendent**
- (i) Cap/pet with embroiled peak with 1 golden leave 
- (ii) Two georgettes with golden corn plant with one leave 
- (iii) One golden star with golden wreath 15 mm from the bottom and 15 mm apart to the top of a blue epaulette 
- (2) **Non Officers**
- (a) **Assistant Superintendent:**
- One golden wreath - Asst Superintendent the lowest point 15mm from the bottom of the epaulette in the middle 
- (b) **Sergeant**
- Chevron Sergeant - the lowest point of the chevron 15mm from the bottom of the epaulette in the middle 
- (c) **Constable; and Cadet Constable**
- Ordinary epaulette without any insignia 

Uniform Insignias in the Service

(1) The uniform insignias in the Service are:

(a)

CAP BADGE

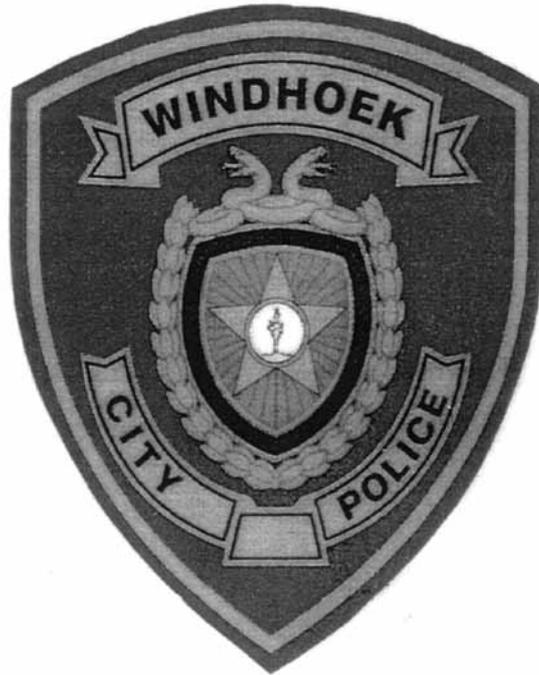
- (i) Metal type: Gold Plated
- (ii) Attachment method: Screws
- (iii) Epoxy Coated

(b)

BREAST BADGE

- (i) Metal type: Gold Plated
- (ii) Attachment method: Rivets
- (iii) Epoxy Coated

(c)

SHOULDER FLASH

(d)

CEREMONIAL SHOULDER FLASH

MOTOR VEHICLE INSIGNIAS IN THE SERVICE

The motor vehicle insignias in the Service are:



1. Vehicles may be fitted with or display a lamp or lamps emitting a blue light or fitted with a lamp or lamps emitting an intermittently-flashing in any direction a blue, white, red or amber light or a combination of those lights as approved by the Minister and which may, at the will of the driver, display a word as approved by the Minister.
2. Blue and yellow reflective contour markings may be displayed on both sides of the vehicles:

Dimensions:

- | | | |
|-----|-----------------------------------------------------------|-----------------|
| (a) | Rear blue contour marking | 150 mm in width |
| (b) | Rear yellow contour marking | 150 mm in width |
| (c) | Middle blue contour marking | 100 mm in width |
| (d) | Third yellow contour marking from the rear | 100 mm in width |
| (e) | Fourth blue contour marking from the rear | 100 mm in width |
| (f) | Inner spaces between contour markings | 25 mm |
| (g) | Bottom blue contour marking divided in different sections | 150 mm in width |

Section dimensions:

- | | | |
|-------|-----------------------------------|-----------------|
| (i) | Sections 1 – 3 from the front - | 15 mm in width |
| (ii) | Sections 4 – 6 from the front - | 40 mm in width |
| (iii) | Sections 7 – 8 from the front - | 70 mm in width |
| (iv) | Sections 9 – 10 from the front - | 100 mm in width |
| (v) | Sections 11 – 12 from the front - | 145 mm in width |

- (h) Spaces between different sections 15 mm

3. The Service insignia in retro reflective material may be displayed on the front door -

Dimensions:

- (a) Length – 330 mm

- (b) Width – 280 mm

4. The wording “CITY POLICE” may be displayed in blue reflective material on the bonnet and the boot or rear side of each vehicle.

Dimensions:

- (a) Height of letters - 10 mm

- (b) Width of letters - 20 mm

- (c) Spaces between letters - 8 mm

5. The wording “CITY POLICE” may be displayed in blue reflective material on both rear doors of motor cars but in the case of a goods vehicle on both sides on the load box.

Dimensions:

- (a) Height of letters - 100 mm

- (b) Width of letters - 8 mm

- (c) Spaces between letters - 8 mm

6. The wording “CRIME ALERT “SMS” 4444” may be displayed in blue reflective material on the rear of a vehicle:

Dimensions:

- (a) Height of letters - 45 mm

- (b) Width of letters - 8 mm

- (c) Spaces between letters - 5 mm

7. Contact numbers may be displayed on the sides and rear end of the vehicles.

Dimensions:

- (a) Height of letters - 100 mm

- (b) Width of letters - 8 mm

- (c) Spaces between letters 8 mm

8. All vehicles must be fitted with a sounding device (siren).

ANNEXURE 4

Declaration of Accession to Office on Appointment and Enrolment
(Regulation 10(3)(i))

I, solemnly state

- (a) that I will defend and uphold the Constitution of Namibia;
- (b) that I will perform my duties as a member of the Windhoek City Police Service to the best of my ability, and in particular, faithfully and impartially -
 - (i) maintain law and order;
 - (ii) prevent crimes; and
 - (iii) protect life and property;
- (c) that I will, where the provisions of the Police Act 1990, (Act No. 19 of 1990) apply, abide by the provisions of that Act and the Regulations made thereunder and obey any orders or instructions issued in pursuance of that Act and the Regulations; and
- (d) that I will, where the provisions of the Road Traffic and Transport Act, 1999 (Act No. 22 of 1999) apply and abide by the provisions of that Act, and any regulation made under that Act, and obey any orders or instructions issued in pursuance of that Act or the regulations.

I know and understand the contents of this declaration. I object/do not have any objection* to taking the prescribed oath. I consider/do not consider* the prescribed oath to be binding on my conscience.

*I swear/affirm that the contents of this declaration are true. So, help me God.

.....
Signature of Witness

.....
Signature of Deponent

I certify that the deponent has acknowledged that he / she knows and understands the contents of this declaration, which was sworn to / affirmed* and signed

Before me at on this day of 20

.....
Signature of Commissioner of Oaths

Full Names (Please Print):

Business Address:

Designation (Rank) Ex Officio

**Delete the words not applicable*

ANNEXURE 5

WINDHOKE CITY POLICE SERVICE

CERTIFICATE OF APPOINTMENT

(Regulation 13)

--	--

[logo of service]

[photo of member]

This is to certify that Identity number (whose photo appears on this certificate) has on been appointed a member of the Service in terms of regulation 10 of the Windhoek Municipal Police Service Regulations and that he or she holds the rank of with Service number

Signed at on this day of 20

.....
Head

.....
Signature of Member

[Office Stamp]

ANNEXURE 6

Form 1

MISCONDUCT CHARGE SHEET
(Regulation 20(1))

WINDHOEK MUNICIPAL COUNCIL

vs

(name)..... (rank).....

PLEASE BE informed that you are hereby charged with misconduct, under the Windhoek Municipality Police Service Regulations, in that you contravened:

- 1.
- 2.

Particulars of the Misconduct

.....
.....

You are requested to **furnish the Head-**

- 1. With a written admission or denial to the charges; and
- 2. A written explanation regarding the admission or denial of the misconduct,

within fourteen (14) consecutive days from the date you receive this notice, if you so wish.

.....
Signature

.....
Date

PLEASE BE INFORMED FURTHER that at the hearing, you:

- have the right to be represented by a representative of your choice, only members mentioned in regulation 19 (3) (b) and 20 (4) or fellow member;
- have the right to present your case;
- have the right to provide evidence in support of your case;
- have the right to controvert evidence produced against you;
- have the right to cross-examine witnesses; and
- have the right of access to documents produced in evidence or in connection with the alleged misconduct.

Decision of Unit Commander

(delete and initial that which do not apply and provide reasons for decision below)

- 1. The grievant has a valid grievance.
- 2. The grievant does not have a valid grievance.
- 3. If a valid grievance I do/ do not have the power to resolve the grievance.

In short my reasons for the above decisions are:

.....

.....

.....

.....

.....

.....

- 4. If point 3 is answered positively, in short describe steps taken to solve the grievance:

.....

.....

.....

.....

.....

.....

.....

.....

Date of decision

Signature (Unit Commander)

NOTICE OF APPEAL
(Incapacity/Misconduct Inquiry or Discharge)
(Regulation 22(2))

.....

and

WINDHOEK MUNICIPAL COUNCIL

KINDLY TAKE NOTICE that I,
(full names and surname of member) hereby note an appeal to Council against the Finding, sentence or the Finding and sentence by the Head, during an Incapacity, Disciplinary or Inquiry held on
....., or a discharge in terms of regulation 19 or 20*, on the following grounds:

On the Merits

1. The Head erred in finding that the Council has proved on a balance of probabilities that:

- (a)
- (b)
- (c)

On the sentence

2. The Head failed to take into account or take into account adequately that:

- (a)
- (b)
- (c)

Dated at Windhoek, on this day of 20.....

.....
Signature Appellant

* Delete any word or words that are not applicable

NOTICE OF DISSATISFACTION OF OUTCOME OF GRIEVANCE

(Regulation 56(4))

.....

And

WINDHOEK CITY COUNCIL

.....

KINDLY TAKE NOTICE that I,
(*full names and surname of member*) hereby note my dissatisfaction of the Outcome of my Grievance against the result of my attached Grievance and request the Head, the Chief Executive Officer or the Committee to reconsider the matter:

On the Merits

- 1. The Unit Commander, Head or Chief Executive Officer was wrong in finding that:
 - (a)
 - (b)
 - (c)

On the solution (if there was one)

- 2. The Unit Commander, Head or Chief Executive Officer failed to take into account or take into account irrelevant information that:
 - (a)
 - (b)
 - (c)

Solution asked for

- 3. I respectfully submit that the correct solution would be (also motivate the proposed solution):
.....
.....

Dated at Windhoek, on this day of 20

.....
Signature of dissatisfied member or representative

Form 5

SUBPOENA
(Regulation 23(3))

FROM: THE CITY POLICE HEAD

TO:

You are hereby summoned and required to attend an inquiry before the board of inquiry in the matter between Council and..... to be held:

VENUE.

DATE.

TIME.

And so from day to day until the inquiry is concluded or the board of inquiry otherwise orders, to give evidence on oath or affirmation on matters that are within your personal knowledge or to produce or such other books or documents that are in your possession.

SIGNED at WINDHOEK on this day of 20.....

.....
Name of City Police Head

.....
Signature
