



Republic of Namibia
Annotated Statutes

REGULATIONS

REGULATIONS MADE IN TERMS OF

Cultural Institutions Act 29 of 1969
section 38

Cultural Institutions Act, 1969 – Regulations

RSA Government Notice R.1168 of 1969

[\(RSA GG 2483\)](#)

came into force on date of publication: 11 July 1969

as corrected by

RSA Government Notice R.3469 of 1969 [\(RSA GG 2538\)](#)

came into force on date of publication: 9 October 1969

and as amended by

RSA Government Notice R.853 of 1970 [\(RSA GG 2721\)](#)

came into force on date of publication: 5 June 1970

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PART I.—GENERAL

Definitions

1. In these regulations “the Act” means the Cultural Institutions Act, 1969 (Act 29 of 1969), and, unless inconsistent with the context, any term to which a meaning has been assigned in the Act shall have the same meaning and -

“cycle” means a period of three years reckoned from 1 January 1968, and each succeeding period of three years;

“day of rest” means -

- (a) a Saturday or a Sunday or a public holiday in the case of any person who normally does not work on such a day; or
- (b) such other day as he is normally relieved from duty instead in the case of any person who normally works on a Saturday or a Sunday or a public holiday;

“Department” means the Department under the control of the Minister;

“director” means any person who is the incumbent of the control post in an institution;

“employee” means any person appointed otherwise than on a fixed basis or on contract in the service of an institution;

“fixed establishment” means the posts determined in terms of regulation 12 for the normal and regular requirements of an institution;

“officer” means any person appointed on a fixed basis, either in a post on the fixed establishment, whether on probation or not, against a post of a higher or lower grading than his own, additional to the fixed establishment, or on contract at an institution;

“pre-revised vacation or sick leave group” means the vacation or sick leave group under which an officer or employee was classified in terms of the regulations promulgated under the State-aided Institutions Act, 1931 (Act 23 of 1931), and in force immediately prior to the coming into operation of these regulations;

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[The State-aided Institutions Act 23 of 1931
was repealed by the Cultural Institutions Act 29 of 1969.]

“salary increment” means the approved amount by which a salary may be increased according to the appropriate scale;

“Secretary” means the Secretary of the Department.

Delegation of Powers

2. (1) Any power conferred by these regulations on -
- (a) the Minister may be delegated by him to the Secretary or any other officer of the Department or to a council;
 - (b) the Secretary may be delegated by him to any officer of the Department or to a council; and
 - (c) a council may be delegated by it to a committee or to the director or to any officer.
- (2) The Minister or the Secretary or a council may at any time withdraw the delegation of such power.

Exceptional Cases

3. If in the opinion of the Minister the circumstances of a case justify a departure from any provision of these regulations, he may deal with the case as he may deem fit: Provided that no action taken in terms of this regulation in respect of any person shall be detrimental to him.

PART II.—COUNCIL

Appointment of Council Members

4. (1) Subject to the provisions of subsection 6(1) of the Act, the Minister shall appoint as many members to a council as he may deem fit and may permit -
- (a) any association of persons contributing annually to the institution not less than R400, or in the opinion of the Minister, its equivalent; or
 - (b) a provincial administration or a local authority or any person,

to appoint one or more additional members (as he may determine) to a council.

(2) Any association, provincial administration, local authority or person referred to in subregulation (1) may appoint an alternate member for every additional member.

Meetings of Board

5. (1) A council shall meet as often as it may deem necessary but not less than once every quarter, or on such other occasion as the chairman may deem necessary.

(2) The chairman or, in his absence, the director, shall at the request of a majority of the members, call a meeting of the council to take place within 14 days of such a request.

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(3) Notice of the time, date and place of a meeting shall be given in writing, by the Secretary of the council to every member of the council such notice setting out briefly the matters to be discussed at the meeting.

(4) At a meeting the council shall deal with matters of which notice has thus been given and any matter that a member may raise with the approval of the other members present.

(5) The director or an officer designated by him shall attend meetings of a council in an advisory capacity.

(6) A council may grant to any member leave of absence from meetings for a period not exceeding six months and, with the approval of the Minister, for a longer period.

(7) (a) One-third of the members of a council but not fewer than three shall form a quorum at a meeting;

(b) if there is no quorum at a meeting the chairman may, by giving notice to all members, convene a further meeting of the council;

(c) at such further meeting of the council the members then present shall form a quorum.

Remuneration of Members of Council

6. A member of a council shall serve in an honorary capacity and receive no remuneration out of the funds of the institution in respect of his membership: Provided that a council may, in respect of a journey necessarily performed in attending a meeting of the council or in connection with the carrying out of his duties as a member of the council, authorise the payment to a member (who is not in full-time State employment) of subsistence allowances and transport expenses or mileage and passenger allowances at the rates and in the circumstances applicable to a deputy secretary in the administrative division of the Public Service when travelling on duty.

Secretary of Council

7. (1) A council shall designate an officer or employee to act as its secretary.

[subregulation (1) corrected by RSA GN R.3469/1969]

(2) The secretary of a council shall -

[subregulation (2) corrected by RSA GN R.3469/1969]

(a) keep the minutes of proceedings at each meeting of the council and within 30 days of such meeting forward a copy of the minutes to the Secretary;

(b) notify the Secretary of the name, address and period of office of a member (other than a member appointed by the Minister) appointed in terms of regulation 4 within 30 days of such appointment;

(c) if a member vacates his seat on the council, within 30 days notify the Secretary or (if such member was not appointed by the Minister), the person, association, Provincial Administration or local authority that appointed such member: Provided

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that, where a vacancy is occasioned by expiry of the period of office of any member, such notification shall be made at least three months in advance; and

- (d) perform such other duties as the council may assign to him.

Functions and Duties

8. (1) Subject to the provisions of the Act and these regulations, a council shall -

- (a) formulate the policies of an institution;
- (b) determine, in the case of an institution with research functions, the research projects to be undertaken by its officers or employees;
- (c) advise the Minister with regard to matters with which the institution is concerned; and
- (d) furnish the Secretary with such information as he may require.

(2) Subject to the provisions of the Act and these regulations, a council shall lay down rules for the proper control and management of the affairs of the institution, including rules as to -

- (a) the procedure at meetings of the council;
- (b) the receipt, safe custody, accounting for, banking, expenditure and control of the funds of the institution;
- (c) the procedure for inviting and accepting tenders for the execution of work on behalf of the institution and for the supply of goods and material to the institution; and
- (d) the accounting for and disposal of stores, equipment, livestock, library material and articles held for display, research or study purposes and any other movable property of whatever kind belonging to or entrusted to the institution.

(3) Any rules relating to matters referred to in subregulation (2)(b), (c) and (d) shall be subject to approval by the Secretary.

PART III—PROPERTY

Safe-guarding Property and Precautions against Loss, Damage or Theft

9. A director shall, with due observance of any directions and rules of the council, make proper arrangements for the safe custody of all property belonging or entrusted to the institution and shall take all practicable precautions against loss, damage or theft

Insurance

10. A council shall insure and keep insured with any person registered as an insurer in terms of the Insurance Act, 1943 -

- (a) any immovable property belonging to the institution against loss by fire or other causes; and

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- (b) all movable property belonging or entrusted to the institution (except such property as the Secretary may exempt from the requirements of this paragraph) against loss by fire, theft or other causes.

Recovery or Writing Off of Losses

11. (1) Any loss of property, moneys or assets of an institution occasioned by negligence, default, lack of vigilance or theft shall be recovered by a council from the person responsible therefor.

- (2) Failing recovery by the council, such loss may be written off by the council.

[subregulation (2) corrected by RSA GN R.3469/1969]

(3) The director shall report all such losses to the Secretary, to the council and to the Controller and Auditor-General and, whenever it appears that such loss has been sustained through fraud, theft or arson by any officer or other person, also to the South African Police.

PART IV.—ESTABLISHMENT, OFFICERS AND EMPLOYEES

Establishment

12. (1) The Minister shall determine the fixed establishment of an institution; the grading of posts on the fixed establishment and the scales of salaries and allowances of officers: Provided that the Secretary may determine the creation, regrading, conversion or abolition of posts of a grading lower than that of assistant director.

- (2) The Secretary shall from time to time determine -
- (a) the number of employees to be employed, either by reason of the absence or illness of the incumbent of any post, or when it is necessary to provide any person for the performance of a class of work for which staff is not ordinarily maintained on a fixed basis, or when it is necessary for any other reason to increase the staff of an institution temporarily; and
- (b) the scales of salaries, wages and allowances payable to employees.

Appointments, Transfers and Promotions

- 13.** A council may, with the approval of the Secretary -
- (a) (i) appoint any person as an officer, in,
- (ii) transfer or promote an officer to, or
- (iii) employ any person as an employee against a vacant post on the fixed establishment: Provided that a council may, without the approval of the Secretary, employ against a vacant post on the fixed establishment any employee engaged to perform semi-skilled or unskilled work; or

[subparagraph (iii) corrected by RSA GN R.3469/1969]

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- (b) hold an officer against a vacant post on the fixed establishment that is of a lower or higher grade than the post normally occupied by such officer, or additional to the fixed establishment.

Employment of Additional Employees

14. A council may employ any person as an employee additional to the fixed establishment, provided that the total number of such employees employed shall not exceed the numbers determined in terms of regulation 12(2).

Requirements for Appointment or Promotion

15. (1) No person shall be appointed as an officer unless he -
- (a) is a South African citizen;
 - (b) is of good character;
 - (c) is free from any mental or physical defect, disease or infirmity which would be likely to interfere with the proper carrying out of his duties or to render necessary his retirement before reaching the pensionable age;
 - (d) has the age, educational and other qualifications determined by the Secretary; and
 - (e) has passed in both official languages an examination of a standard required in terms of subregulation (2):

[subregulation (2) corrected by RSA GN R.3469/1969]

Provided that the Secretary may approve that any person who does not qualify in terms of paragraph (a) for a fixed appointment as an officer, be appointed as an officer on contract for a specified period: Provided further that the Secretary may approve the appointment as an officer of a person not qualified in terms of paragraph (e), but such person's remuneration shall not without the approval of the Secretary be increased beyond the remuneration received by him after the expiry of a period of three years calculated from the date of his first appointment unless and until he passes such an examination.

- (2) The standard referred to in subregulation (1)(e) shall be in respect of -
- (a) posts for which a Matriculation Certificate or a more advanced qualification is required: One official language of the standard of the National Senior Certificate A (or recognised equivalent certificate) or of a higher standard, and the other official language of the standard of the National Senior Certificate B or recognised equivalent certificate) or of a higher standard.
 - (b) posts for which a lower qualification than Matriculation, but not lower than Junior Certificate or Standard 8, is required: One official language of the standard of the National Junior Certificate A (or recognised equivalent certificate) or of a higher standard, and the other official language of the standard of the National Junior Certificate B (or recognised equivalent certificate) or of a higher standard.

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[The references to two “official languages” in this regulation refer to the period before independence when English and Afrikaans were both official languages of “South West Africa”. The only official language of Namibia is English (Namibian Constitution, Art 3(1)).]

Medical and Birth Certificates

16. A candidate for appointment as an officer. shall submit to the council -
- (a) a declaration and a medical report, considered to be satisfactory by the council, in a form approved by the Secretary; and
 - (b) his birth certificate.

Probationary Service

17. (1) An appointment or promotion of an officer shall, unless a council determines otherwise, be on probation for one year, after which such appointment or promotion shall be confirmed, extended or terminated by resolution of the council.

(2) A council may discharge an officer appointed on probation from the service of the institution either during or at or after the expiry of the period of probation -

- (a) by giving him one month’s notice; or
- (b) forthwith, if his conduct is unsatisfactory.

(3) An officer promoted on probation whose promotion on probation is terminated by the council shall revert to the post formerly held by him or to a post of equivalent grading and to the remuneration he would have attained in his former post had he not been promoted.

Probationary Service

18. An officer or employee may, with his consent and with the approval of the Secretary, be seconded, upon such conditions as the Secretary may decide, either for a particular service or for a period of time to the service of another institution. body or person. but shall, while so seconded, remain subject to these regulations.

Remuneration

19. (1) Officers and employees shall be paid salaries, wages and allowances in accordance with the scales determined in terms of regulation 12.

(2) An officer’s or employee’s salary, wage or scale of salary shall not be reduced without his consent, except in accordance with the provisions of Part VII of these regulations.

Commencing Salary

20. An officer or employee shall, unless the Secretary approves a higher salary or wage, be paid a salary or wage on appointment or promotion at the minimum of the appropriate scale.

Salary Increments

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21. (1) A council shall, subject to satisfactory service and conduct, annually or as otherwise determined in his conditions of service, grant to an officer or employee one salary increment within the limits of and according to the scale applicable to him, with effect from the first day of his incremental month.

(2) In an exceptionally meritorious case or on obtaining an additional appropriate qualification, a council may, with the approval of the Secretary, grant to an officer or employee one or more salary increments in addition to that mentioned in subregulation (1).

(3) If an officer's or employee's service is considered unsatisfactory by a council, it may withhold his salary increment for such period as it may determine.

Additional Remuneration or Other Benefit

22. A council shall not pay or grant to an officer or employee, in respect of his employment as such, any remuneration, allowance, honorarium, award or bonus of any kind whatsoever or grant him any other benefit in kind except as authorised in these regulations.

Travelling and Subsistence Allowances

23. (1) An officer or employee who is required to travel on duty may be paid such transport and subsistence allowances as may be determined by the council but which may not exceed the rates approved by the Secretary: Provided that the Secretary may authorised a different allowance in a particular case: Provided further, that no allowance in respect of a journey on duty outside the boundaries of the Republic or the Territory of South West Africa shall be paid without the approval of the Secretary.

[The word "authorised" should be "authorise" ("...the Secretary may authorise...").]

- (2) A travelling allowance may also be paid to enable any person -
- (a) appointed as an officer, to travel to his place of appointment; or
 - (b) who is required by the council to present himself for an interview in connection with a possible appointment, to travel to the place where the interview is to take place.

Official and Extraneous Work: Additional Remuneration

24. An officer or employee shall (unless his conditions of service provide otherwise) -
- (a) place the whole of his time at the disposal of the institution where he is employed;
 - (b) devote his full attention, during his hours of duty or periods of overtime duty, to the duties assigned to him;
 - (c) have no legal claim to additional remuneration in respect of any additional official duty or work assigned to him by or on behalf of the council: Provided that the council may pay overtime remuneration at rates approved by the Secretary;
 - (d) not, without the permission of the council, perform or engage himself to perform for any other person any remunerative work outside his employment in the service of the institution;

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- (e) pay into institutional funds, unless the council otherwise determines, any remuneration or allowance of any kind whatsoever that he may have received otherwise than in accordance with the provisions of these regulation; and

[The phrase “these regulation” should be “these regulations”.]

- (f) pay into institutional funds all moneys received by him in his official capacity, unless the council allows him to retain the whole or a portion of such moneys as part of his remuneration.

Hours of Duty

25. (1) The council shall determine the official hours of duty of officers and employees: Provided that, unless the council approves otherwise, officers and employees shall observe the following working week: -

Professional, technical, administrative clerical and equivalent ranks: 40 hours; and other officers and employees: 48 hours.

(2) The director or the supervising officer or employee may require an officer or employee to perform official duty on any day of the week or at any time during the day or night or to attend at his normal place of work or elsewhere for such duty.

Resignation

26. (1) An officer (other than an officer on contract) may terminate his employment by giving notice in writing to the council of at least one month, but the council may accept shorter notice.

(2) An employee may terminate his employment by giving notice in writing or verbally to the director of at least 24 hours, to become effective at any time, whether during or at the end of a month; but not on a day of rest: Provided that if such employee resigns by giving at least one month’s notice, his salary be paid for the full month, irrespective of whether it ends on a day of rest or not, provided he is normally paid for days of rest and he remains in service up to and including the last working day of the month in question.

Retirement

27. An officer shall retire from the service of an institution -

- (a) on attaining the retirement age of 65 years unless the council extends his service as provided by regulation 28; or

[paragraph (a) corrected by RSA GN R.3469/1969]

- (b) on or at any time after attaining the pensionable age of 60 years if -
 - (i) he has given three months’ notice in advance of his wish to so retire; or
 - (ii) the council decides so to retire him on three months’ notice:

Provided that the pensionable age shall be deemed to be the age of 55 years in the case of a female officer who was appointed before the first day of January 1956, and is a member of the Provident Fund: Provided further, that an officer who is a member of the Provident Fund and was appointed

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with effect from any date subsequent to 31 December 1955, shall not retire from the service of any institution before attaining the age of 65 years.

Extension of Service

28. A council may, with the approval of the Secretary, extend the service of an officer, with his consent, after his attaining the retirement age as provided by regulation 27 for periods of not more than one year at a time.

Discharge

29. (1) An officer may be discharged by a council from the service of an institution -

- (a) on account of continued ill-health;
- (b) owing to the abolition of his post or any reduction, reorganisation or re-adjustment of the fixed establishment of the institution;
- (c) if, for reasons other than his own unfitness or incapacity, his discharge will promote efficiency or economy in the institution in which he is employed;
- (d) on account of unfitness for his duties or incapacity to carry them out efficiently;
- (e) on account of misconduct;
- (f) if, in the case of an officer appointed on probation, his appointment is not confirmed; or
- (g) in the case of a female officer, on account of her marriage, whether such discharge is effected on or on one month's notice at any time after her marriage.

(2) An officer who absents himself from his official duties without permission from the director or his supervising officer for a period exceeding 30 days shall be deemed to have been discharged from the service of the institution on account of misconduct with effect from the date immediately succeeding his last day of attendance at his place of duty: Provided that, if such officer assumes other employment, he shall be deemed to have been thus discharged notwithstanding that the said period has not expired: Provided further, that if such officer reports for duty at any time after the expiry of the period mentioned, the council may reinstate him in his former or any other post on such conditions as the Secretary may decide, in which event the period of his absence from official duty shall be deemed to have been absence on vacation leave without pay, or on leave on such other conditions as the Secretary may decide.

[Subregulation (2) corrected by RSA GN R.3469/1969. The last use of the word "absence" in this subregulation should be "absent" ("...absent on vacation...").]

(3) Notwithstanding the absence of any cause for retirement or discharge set out in these regulations, a council may terminate the employment of an officer (other than an officer on contract) on at least three months' notice in writing of the termination of his services: Provided that such officer may within 14 days after receipt of the notice mentioned, or within such further period as the Minister may allow, lodge a written appeal against the termination of his services with the Minister: Provided. further. that the Minister may order that such appellant be reinstated in his former post or in any other post subject to such conditions as the Minister may determine.

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(4) A director may discharge an employee on notice of at least 24 hours from the service of the institution: Provided that the council may, subject to the provisions of these regulations; re-employ such employee in the service of the institution.

Functions and Duties of Officers and Employees

30. (1) A director shall, in addition to the functions and duties assigned to or imposed on him by the council and in terms of the regulations and the rules of the council, be responsible for -

- (a) the organisation, carrying out and direction of the work of the institution in accordance with the policies laid down and the directions given by the council;
- (b) the maintenance of discipline and efficient administration in the institution;
- (c) the proper use and care of the property belonging or entrusted to the institution; and
- (d) the proper care of the finances of the institution.

(2) An officer or employee shall perform the duties assigned to him from time to time by the council or the director.

(3) A council or a director may require an officer or employee temporarily to perform duties other than those ordinarily assigned to such officer or employee or appropriate to the grade, designation or classification of his post.

Official Channels

31. A request or communication from an officer or employee in connection with any matter falling within the scope of -

- (a) the council's powers, functions or duties shall be addressed to the council through the medium of the directors and shall be submitted by the director to the council; and
- (b) the Minister's or Secretary's powers, functions or duties shall be submitted to the Secretary through the medium of the director and the council.

Obedience

32. An officer or employee shall obey any lawful instruction given to him by a person who is competent to do so but may, after having carried it out, request the person who gave the instruction to repeat it in writing, may then protest in writing to the director and, if he is dissatisfied with the director's decision, request that the decision be submitted to the council for review.

PART V.—OFFICERS AND EMPLOYEES—LEAVE OF ABSENCE

Classification of Leave

33. (1) All absence from duty on leave shall be classified under one or more of the following headings:-

- (a) Vacation Leave -

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- (i) vacation leave with full pay;
- (ii) vacation leave without pay.
- (b) Sick Leave -
 - (i) sick leave with full pay;
 - (ii) sick leave with half pay;
 - (iii) sick leave without pay;
 - (iv) special sick leave with full or reduced pay.
- (c) Special Leave -
 - (i) special leave with full pay;
 - (ii) special leave with pay conditions to be approved by the Secretary.

(2) The granting of leave under any one of the heads mentioned in subregulation (1) shall not affect the granting of leave under any of the other heads mentioned therein, except in so far as is specifically provided elsewhere in these regulations.

Grouping of Officers and Employees for Leave Purposes and Leave Provision

34. Subject to the provisions of regulation 35, officers and employees shall, for the purpose of their being granted leave of absence, be classified into the undermentioned groups and may be granted leave accordingly: Provided that paragraphs (a)(iii) and (iv) and (b)(iii) and (iv) shall apply only to part-time employees who are normally on duty for at least 4t hours per day (4 hours if a six-day working week is observed): -

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(a) Vacation leave (accumulative): -

Classification	Group	Accrual (days per annum)
(i) An officer or a full-time White employee appointed before 1 September 1969 who - was in pre-revised vacation leave group I; <i>OR</i> holds the rank of director, assistant director, professional officer (various ranks) or librarian (various ranks), upon completion of five years' service; <i>OR</i> holds any other rank, upon completion of 15 years' service; was in pre-revised vacation leave group II, until he has completed the appropriate period of service for inclusion in group IA above; <i>OR</i> was in pre-revised vacation leave group III, IV or V, upon completion of 10 year's [years'] service; was in pre-revised vacation leave group III of [or] IV, until he has completed 10 year's service; <i>OR</i> was in pre-revised vacation leave group V, upon completion of five years' service; was in pre-revised vacation leave group V, until he has completed five year's service	1A	38
	1B	36
	II	30
	III	24
(ii) An officer appointed on or after 1 September 1969 who has completed the following service - Ten years or longer	1B	36
Less than 10 years	II	30
(iii) A full-time White employee appointed on or after 1 September 1969 who has completed the following service as well as any part-time White employee who has completed the following service - Ten years or longer	IB	36
	II	30
	III	24
(iv) A full-time or part-time non-White employee who has completed the following service - Fifteen years or longer	II	30
	III	24
	IV	18

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(b) Sick Leave: -

Classification	Group	Number of days in each cycle with –	
		full pay	half pay
(i) All officers	A	120	120
(ii) A full-time White employee appointed before 1 September 1969 who -			
was in pre-revised sick leave group A	A	120	120
was in pre-revised sick leave group B or D;	B	90	90
<i>OR</i>			
was in pre-revised sick leave groups F or H, upon completion of 10 years' service;	C	60	60
was in pre-revised sick leave group F, until he has completed 10 years' service;			
<i>OR</i>	D	30	30
was in pre-revised sick leave group H, upon completion of five year's [years'] service			
was in pre-revised sick leave group H, until he has completed five year's [years'] service			
(iii) A full-time White employee appointed on or after 1 September 1969 who has completed the following service as well as any part-time White employee who has completed the following service -			
Ten years or longer.....	B	90	90
Five years or longer, but less than 10 years.....	C	60	60
Less than five years.....	D	30	30
(iv) A full-time or part-time non-White employee who has completed the following service -			
Twenty years or longer	B	90	90
Ten years or longer, but less than 20 years.....	C	60	60
Five years or longer, but less than 10 years.....	D	30	30
Less than five years.....	E	15	15

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Application of Leave Regulations

35. (1) These leave regulations shall be applicable to all officers, full-time and part-time employees.

(2) If an officer has retired or has relinquished his permanent post at an institution for any reason whatsoever but is re-appointed, with or without a break in service, in a temporary capacity -

- (a) such re-appointment shall in every respect be regarded as a new appointment in applying these leave regulations;
- (b) his previous permanent service shall not count as service for leave purposes; and
- (c) his accumulated leave shall lapse when his permanent appointment is terminated.

Leave is a Privilege

36. (1) Leave of absence provided for in these regulations is a privilege, shall not be claimable as a right and shall only be granted subject to the exigences of the institution.

[The word “exigencies” is misspelt in the *Government Gazette*, as reproduced above.]

(2) An officer or employee who leaves the service of an institution, for any reason whatsoever, cannot legally claim payment in respect of the cash value of leave standing to his credit.

(3) The provisions of this regulation shall not preclude the payment of a leave gratuity in terms of regulation 66.

Application for Leave

37. (1) An officer or employee shall not leave or stay away from his work or duty until he has applied in writing for leave and has been advised by or on behalf of the director that his application for leave has been approved, unless he has been suspended from duty or is prevented by sudden illness or other circumstances that are acceptable to the council from remaining on or reporting for duty.

[subregulation (1) corrected by RSA GN R.3469/1969]

(2) An application for leave shall be submitted in a form approved by the Secretary.

(3) The form of the medical certificate required to support any application for sick leave shall be as approved by the Secretary.

Grant and Withdrawal of Leave

38. (1) A council or a director (if the council has empowered him to do so) may grant leave of absence to an officer or employee and may at any time withdraw such leave.

(2) Leave may not exceed the limits prescribed by these regulations unless the Secretary approves otherwise.

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Recording Leave: Leave Register

39. (1) A director shall keep in respect of every officer or employee a leave register, in which shall be recorded -

- (a) the vacation leave standing to the credit of an officer or employee on the first of January of each year: Provided that any part of a day shall be calculated as one day; and
 - (b) all absence from duty, according to the classification in regulation 33.
- (2) All leave applications shall be kept for record and audit purposes.

Payment of Allowances, etc., During Leave

40. The continuance or cessation of the payment to an officer or employee of allowances or remuneration other than his salary or wage and his liability for the payment of rent in respect of official quarters during periods of leave shall be subject to any instructions issued by the Secretary with regard to such allowances, remuneration and payment of rent.

Leave Counting for Leave Purposes

41. (1) All leave (of whatever nature) with full or part pay and vacation and sick leave without pay not exceeding 15 days in the aggregate in a month shall count for the purpose of leave accrual: Provided that, if the leave without pay exceeds the number of days mentioned herein, the provision in respect of sick leave with full pay and sick leave with half pay that is applicable to an officer or employee in terms of regulation 34 shall be reduced by one thirty-sixth in respect of each such excess, which reduction shall be made in respect of the cycle in which the excess occurs or, if the available sick leave for the relative cycle has already been taken, in respect of the next succeeding cycle.

(2) Vacation and sick leave without pay shall count as service for the purpose of determining an officers' or employee's leave group under regulation 34.

[The apostrophe is misplaced in the word "officer's".]

(3) Vacation leave which in terms of subregulation (1) accrues during a period of vacation or sick leave without pay shall not be granted to an officer or employee until he has, after his absence on such leave without pay, resumed his duties, and shall not be granted with retrospective effect.

Leave Counts for Salary Increments

42. All leave (of whatever nature), whether with or without pay, shall count as service for the purposes of salary increments.

Days of Rest

43. (1) A day of rest shall not be regarded as leave and shall not be recorded as such in the leave register: Provided that -

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- (a) a day of rest, or two or more consecutive days of rest, falling within a period of leave, shall be regarded as leave falling under the same heading of regulation 33 as the leave which precedes and succeeds such day or days of rest;
- (b) a day of rest, or two or more consecutive days of rest falling between a period of vacation leave and a period of sick leave (or vice versa) shall be regarded as vacation leave, unless the officer or employee concerned produces evidence that he was actually ill on such day or days of rest, in which case such day or days of rest shall be regarded as sick leave; and

[paragraph (b) substituted by RSA GN R.853/1970]

- (c) if an officer or employee who is called upon to report for duty on a day of rest fails to do so, such day of rest shall be regarded as vacation leave without pay, unless he was prevented from reporting for duty by circumstances which are acceptable to the council.

[paragraph (c) corrected by RSA GN R.3469/1969]

(2) An officer or employee shall not be paid a salary or wage in respect of a day of rest unless he is entitled to such payment for the day in terms of his conditions of service.

Lapse of Leave on Termination of Employment

44. (1) Immediately an officer or employee gives notice of resignation, any leave with pay granted shall lapse with effect from the date of such notice or, if the notice is undated, from the date it is received by or on behalf of the director, and any leave applied for or absence from duty thereafter shall be regarded as vacation leave without pay: Provided that the provisions of this subregulation shall -

[subregulation (1) corrected by RSA GN R.3469/1969]

- (a) apply only in respect of absence during the officers' or employee's last 30 days of service; and

[The apostrophe appears to be misplaced in the word "officer's" in paragraph (a).]

- (b) not apply to -
 - (i) sick leave;
 - (ii) special leave granted in terms of regulation 63(1)(b), (c) or (d); and
 - (iii) vacation leave granted in terms of regulation 56.

(2) Any unused leave of absence granted to an officer or employee shall lapse on the termination of his services for any reason whatsoever.

(3) An officer's or employee's period of employment shall not be extended in order to enable him to utilise leave that may have been granted to him.

Unauthorised Absence from Duty

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45. Except as provided for in regulation 63(1)(c) or unless a council decides otherwise, all unauthorised absence from duty shall be regarded as being vacation leave without pay.

[regulation 45 corrected by RSA GN R.3469/1969]

VACATION LEAVE: GENERAL PROVISIONS

46. (1) Vacation leave shall accrue in respect of each completed month of service at the rate of one-twelfth of the provision applicable to an officer or employee in terms of regulation 34.

(2) If an officer or employee is transferred from one post to another and his transfer results in a change in his classification for leave purposes or if, for any reason other than his transfer, passes from one vacation leave group to another -

(a) he shall retain the vacation leave credit which accrued during his period of service in the previous group; and

[The word “accrued” is misspelt in the *Government Gazette*, as reproduced above.]

(b) he shall earn vacation leave according to the new group applicable to him from the first day of the month during which such transfer or grouping becomes effective,

subject to the provisions of regulation 35(2).

(3) A council may at any time require an officer or employee to take the whole or any portion of the vacation leave due to him, provided that the maximum period of leave prescribed in subregulation (4) is not exceeded.

(4) Subject to the provisions of regulation 56 an officer or employee shall not be granted vacation leave on full pay in excess of 184 days in the aggregate in any period of 18 months and any absence from duty above this limit, but not exceeding 184 days in the aggregate in any period of 18 months, shall be covered by the grant of vacation leave without pay.

[The word “employee” is misspelt in the *Government Gazette*, as reproduced above.]

(5) In the event of an officer or employee being granted vacation leave with full pay in excess of that provided in these regulations, such excess may be deducted from vacation leave which subsequently accrued to him: Provided that in the event of the officer or employee resigning or his services being terminated before sufficient vacation leave has accrued to him for the purpose of such deduction, such portion of the excess as exceeds the accrual of his vacation leave on his last day of service shall be regarded as an overpayment of salary, which shall either be recovered or be written off under competent authority.

[subregulation (5) corrected by RSA GN R.3469/1969]

(6) If sound reasons exist, a council may at its discretion grant an officer or employee who has no vacation leave with pay to his credit vacation leave without pay but not exceeding 184 days in the aggregate in any period of 18 months.

(7) The promulgation of these regulations and the repeal of the regulations which were in force immediately prior to such promulgation shall in no way effect the continuity of the vacation leave privileges of an officer or employee who was employed by the institution

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immediately prior to the date of commencement of these regulations, and accumulated vacation leave shall remain to the credit of such officer or employee.

[The word “affect” is misspelt in the *Government Gazette*, as reproduced above.]

(8) Subject to the provisions of subregulation (9), any person who is in full-time employment in a Government department, the Administration of a Province of South-West Africa or of the South African Railways or of an institution or body instituted by or in terms of an Act and financed or subsidised by the Government and is, without a break in service, transferred or appointed to a post in which these leave regulations apply to him shall retain the vacation leave standing to his credit on the day preceding his transfer or appointment, and the previous service in respect of which the leave credit is carried forward shall count as service for leave purposes: Provided that, if such leave would have been available for utilisation only after completion of a fixed period of service and such period of service has not been completed at the date on which this regulation becomes applicable to the officer or employee, the leave credit may be calculated in proportion to such part of the period of service referred to as he has completed on the latter date and the leave thus calculated may be granted immediately.

[The words “transferred” and “referred” are misspelt
in the *Government Gazette*, as reproduced above.]

(9) In applying the provisions of subregulation (8), any part of a day shall be taken as one day when the leave credit is being carried forward.

SICK LEAVE.—GENERAL PROVISIONS

Sick Leave with Full and Half Pay

47. (1) Sick leave shall accrue to an officer or employee on the first day of a cycle and, subject to any other provisions of these regulations, the full provisions of the relative cycle may be granted to him with effect from that day: Provided that no officer or employee shall be granted sick leave with full or half pay until he has completed 30 days’ service and then only in respect of absence subsequent to the completion of such service.

(2) If an officer or employee, during a cycle and without a break in service, passes to a group in which the sick leave provision is less favourable than that formerly applicable to him, the sick leave provision formerly applicable to him shall, for the duration of the relative cycle, continue to apply to him.

[The word “provision” is misspelt in the *Government Gazette*, as reproduced above.]

(3) If an officer or employee, during a cycle and without a break in service, passes to a group to which the sick leave provision is more favourable than that formerly applicable to him, the sick leave provision of the new group shall immediately apply to him.

Lapse of Unused Sick Leave

48. Unused sick leave prescribed for a particular cycle shall lapse at the end of that cycle.

Granting of Sick Leave

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49. Sick leave shall be granted only in respect of the absence from duty of an officer or employee owing to an illness, indisposition or injury for which he was not himself responsible or which was not due to his failure to take reasonable precautions.

Sick Leave for Certain Illnesses

50. Sick leave shall be granted in respect of nervous complaints, insomnia, debility and similar ill-defined illnesses or indispositions only if the council is satisfied that the applicant's condition of health -

- (a) incapacitates him for duty; and
- (b) does not arise from his failure to apply for vacation leave.

[regulation 50 corrected by RSA GN R.3469/1969]

Compulsory Medical Examination

51. The council may at any time require an officer or employee to submit to an examination at the expense of the institution by one or more registered medical practitioners nominated by the council.

[regulation 51 corrected by RSA GN R.3469/1969]

Sick Leave in Excess of Three Days

52. (1) If an officer or employee is absent from duty for a continuous period of more than three days owing to illness, he shall be granted sick leave only if he submits a certificate by a registered medical practitioner (or a registered dentist, if regulation 54 is applicable to him) which -

- (a) clearly describes the nature of the illness;
- (b) states that he is not capable of performing his official duties; and
- (c) indicates the period necessary for his recuperation.

(2) The council may, in its discretion, require the submission of such a certificate in respect of periods of three days or less.

(3) If the council is satisfied that the absence of an officer or employee is bona fide due to illness and that there are good reasons for the non-production of a certificate of indisposition, it may waive the submission of such a certificate by the officer or employee in respect of sick leave for a continuous period not exceeding 14 days and endorse such waiver on the application for leave.

Maximum Sick Leave Without Certificate of Indisposition

53. Sick leave, with or without pay, in respect of which a certificate referred to in regulation 52, is not submitted, may be granted only for an aggregate of 10 days during any year ending 31 December and any further absences shall be covered by the granting of vacation leave or, if the officer or employee has no vacation leave to his credit, of vacation leave without pay: Provided that the provisions of this regulation shall not apply to periods of absence in respect of

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which exemption in terms of regulation 52 has been granted: Provided further that such periods shall not be taken into consideration in the determination of the 10 days.

Certificate of indisposition Issued by a Dentist

54. (1) If an officer or employee's absence is due to a dental abscess, a fracture of the jaw, acute Vincent infection of the mouth or complications following dental extractions, such as osteomyelitis, osteitis and secondary haemorrhage, a certificate as defined by regulation 52 and issued by a registered dentist may be accepted for the purposes of that regulation.

(2) Notwithstanding the provisions of subregulation (1), the council may require that a certificate by a registered medical practitioner be submitted before sick leave is granted by him.

Refusal of Sick Leave

55. Notwithstanding the submission of a certificate as defined by regulations 52 and 54, the council may, in its discretion, refuse to grant sick leave with pay in respect of any absence from duty to which the certificate relates, in which case the absence shall be regarded as unauthorised and the provisions of regulation 45 shall apply.

Conversion of Vacation Leave into Sick Leave

56. (1) An officer or employee may, on his written application, be granted any vacation leave he may have to his credit in lieu of sick leave with half pay or sick leave without pay, provided such application is submitted not later than 30 days after he has resumed his duties: Provided that the number of days vacation leave thus granted shall not exceed 365 days in any cycle: Provided further that the council is satisfied that the officer or employee concerned is not at that stage permanently unfit for the resumption of his normal duties.

(2) Once the vacation leave referred to has been granted to an officer or employee and he has received payment in respect thereof, such leave shall not be reconverted into sick leave with half pay or without pay.

Granting of Sick Leave During Period of Absence on Vacation Leave

57. (1) If an officer or employee to whom vacation leave has been granted becomes ill after he has left his duties to proceed on vacation leave, that portion of the vacation leave referred to during which he was indisposed may be converted into sick leave if -

- (a) he submits a certificate by a registered medical practitioner (or a registered dentist if regulation 54 is applicable to him) that complies with the requirements prescribed by regulation 52(1); and
 - (b) the necessary sick leave is available in terms of these regulations.
- (2) Vacation leave without pay shall not be converted into sick leave.

Additional Sick Leave with Full Pay

58. An officer or employee who has completed at least 21 years' continuous service and who, because of prolonged illness, has taken all the sick leave with full pay which may be granted to him in terms of these regulations, may be granted additional sick leave with full pay to the extent and subject to the conditions approved by the Secretary.

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SICK LEAVE WITHOUT PAY

Limitation of Sick Leave Without Pay and Submission of Certificate of Indisposition

59. (1) Notwithstanding the provisions of regulation 56, sick leave without pay not exceeding 365 days in any particular cycle may be granted to an officer or employee who has used all his paid sick leave provided for in these regulations.

(2) The grant in terms of subparagraph (1) may be made irrespective of whether the officer or employee has been granted additional sick leave with half pay in terms of regulation 61.

(3) If an officer or employee has been granted the sick leave without pay provided for in this regulation, he shall not, during the relative cycle, be granted any further leave, of whatever nature, to cover his absence from duty owing to illness, except with the approval of the Secretary.

SPECIAL SICK LEAVE

Injuries on Duty

60. (1) An officer or employee who is absent from duty owing to an injury sustained in an accident arising out of and in the course of his duties or owing to a disease contracted in the course of and as a result of his duties, may be granted special sick leave with full pay for the period he is incapacitated for his normal duties or, if the case falls within the scope of the Workmen's Compensation Act, 1941, special sick leave with remuneration equal to the difference between full pay and the compensation payable to him in terms of that Act.

(2) Special sick leave in terms of this regulation shall not be granted if the council is of the opinion that the accident is due to the serious and wilful misconduct of the officer or employee.

(3) The provisions of regulations 51, 52 and 5 apply, *mutatis mutandis*, to the granting of special sick leave.

EXTRAORDINARY SICK LEAVE WITH HALF PAY

61. If an officer or employee who has been granted the maximum amount of sick leave provided for in these regulations is after such leave not yet able, for health reasons, to resume his duties, the council may -

- (a) on the submission to it of a satisfactory certificate by a registered medical practitioner;
- (b) if it is satisfied that the officer or employee at that particular time is not permanently unfit to resume his normal duties; and
- (c) if the officer or employee has no vacation leave to his credit,

in its discretion, grant such officer or employee further sick leave with half pay not exceeding 92 days in any one cycle in respect of separate periods of absence and in respect of different kinds of illnesses.

DISCHARGE OWING TO CONTINUED ILL-HEALTH

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62. Nothing in these regulations contained shall preclude the discharge of an officer or employee on the grounds of continued ill-health before the maximum or any period of sick leave has been granted.

SPECIAL LEAVE.—GENERAL PROVISIONS

Special Leave with Full Pay

Purpose for which special leave is granted

63. (1) Special leave with full pay may be granted to an officer or employee -
- (a) for writing any examination of a university or university college established by Act of Parliament or any other examination that the Secretary may determine;
 - (b) if he is absent from duty as a result of segregation or isolation on medical instructions after he has been in contact with a person who has contracted or is suspected of having contracted an infectious or contagious disease: Provided that the granting of special leave under this paragraph is subject to the submission of a certificate by a registered medical practitioner indicating the period of and reason for segregation or isolation;
 - (c) for the period of detention and trial, if he is absent from duty as a result of his arrest or his appearance in court on a criminal charge and he is subsequently acquitted or the charge withdrawn;
 - (d)
 - (i) if he is, as a member of the Citizen Force, required in terms of the Defence Act, 1957, or any regulation made thereunder, to undergo continuous or non-continuous training, except in the case of his initial nine months' training period or if he receives his first period of military training as a ballotee at Military Gymnasium, in which cases special leave with remuneration equal to the difference between his normal salary and the pay which he receives in terms of the Citizen Force regulations may be granted to him: Provided that the provisions of this paragraph shall not apply when he is performing full-time service in lieu of peace-time training in terms of section 20 of the Defence Act, 1957; or
 - (ii) if he voluntarily, or under a special agreement between him and the Department of Defence relating to his training and with the permission of the council, undertakes, as a member of the Citizen Force, any continuous or non-continuous training or attends an instructional or qualifying course over and above any training for which he is liable in terms of the said Act, provided the Officer Commanding the respective Command or South African Air Force Group certifies that such training or course is necessary in the interest of the South African Defence Force;
 - (iii) if he is required, in terms of the Defence Act, 1957, or any regulation made thereunder, to attend, as a member of a commando, training exercises or other annual training in terms of section 44 of the said Act, provided the Officer Commanding the Command concerned certifies that attendance at such training exercises or other annual training is in accordance with the provisions of the aforesaid regulations;

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- (iv) if he attends, as a member of a commando, an instructional or qualifying course, provided the Officer Commanding the Command concerned certifies that attendance at such course is necessary in the interests of the South African Defence Force;
- (v) if he is, as a member of the Reserve of Officers, required to attend a refresher course or undergo refresher training in order to maintain his proficiency, provided the Army, Air or Naval Chief of Staff concerned certifies that such course or training is necessary in the interests of the South African Defence Force; or
- (vi) if he is, as a member of any section of the South African Defence Force (except a member of the Citizen Force who is performing whole-time service in lieu of peace-time training in terms of section 20 or is undergoing whole-time training in terms of section 23) including a member of the commando who is attending a training exercise or annual training in terms of section 44 of the Defence Act, 1957, called out in terms of the provisions of Chapter X of the said Act for service in the prevention or suppression of disorder or other emergency in the Republic; or
- (vii) if he is, as a member of the Reserve Police Force, called up in terms of the Police Act, 1958, or any regulation made thereunder for full-time training, attendance at compulsory rifle practice necessitating his absence from duty for one or more full working days or service in the prevention or suppression of disorders or during other emergencies in the Republic.

**[The Defence Act 44 of 1957 has been replaced by the Defence Act 1 of 2002.
 The Police Act 7 of 1958 has been replaced by the Police Act 19 of 1990]**

(2) Special leave granted in terms of subregulation (1) may include any period actually and necessarily occupied in travelling for the purpose for which the leave is granted.

SPECIAL LEAVE WITH PAY CONDITIONS AS APPROVED BY THE SECRETARY

Leave for purposes of study

64. (1) A council may, with the approval of the Secretary, grant an officer or employee, for the purposes of study or research -

- (a) special leave with full pay equal to the number of days vacation leave with full pay granted him for the purpose of such study or research; and
- (b) vacation leave without pay for a period not exceeding 365 days to cover the remainder of the period of his absence from duty.

(2) An officer or employee granted such leave shall give a written undertaking to remain in the service of the institution where he is employed for a period of not less than one year after the expiry of the period of leave and should he fail to comply with such undertaking, to refund all moneys received by him in respect of the period of special leave.

- (3) Any application for such leave shall be accompanied by full particulars regarding -
 - (a) the study or research to be undertaken;

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- (b) the institution to be attended or visited;
- (c) the itinerary if a study tour be included; and
- (d) the respects in which such study or research would be in the interests of the institutions where he is employed.

Exceptional cases

65. The council may in exceptional cases approve special leave subject to such pay conditions as the Secretary may determine.

Leave Gratuity

66. (1) Upon the termination of the services of an officer or full-time employee as a result of -

- (a) death;
- (b) retirement on or after attaining the age and subject to the conditions mentioned in regulation 27(b);
- (c) discharge or resignation of a female officer on account of her marriage;
- (d) discharge owing to ill health not occasioned by own default or discharge owing to failing powers;
- (e) discharge owing to redundancy, abolition of office or reorganisation; or
- (f) termination of services of a contract employee as a result of the expiry of the period of service laid down in the contract,

a leave gratuity shall be payable by a council in respect of vacation leave standing to the credit of such officer or employee.

[subregulation (1) corrected by RSA GN R.3469/1969]

- (2) A gratuity shall not be payable upon termination of services by reason of -
 - (i) resignation except as referred to in subregulation (1)(c);
 - (ii) discharge owing to misconduct;
 - (iii) abscondence; or
 - (iv) discharge owing to ill-health occasioned by own: default:

Provided that, subject to the approval of the Secretary, such a gratuity may be paid by a council in the case of an officer or employee who resigns on account of ill-health or failing powers after he has reached the age of 60 years if the council is convinced that, had such officer or employee not resigned the council would have terminated his services owing to ill-health or failing powers as a result of advanced age.

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(3) A council may, with the approval of the Secretary, pay a gratuity upon discharge of an officer or employee -

- (i) owing to unfitness for his duties or incapability to carry them out efficiently;
- (ii) with a view to promoting efficiency or economy; or
- (iii) in terms of regulation 29 (3).

(4) The maximum leave in respect of which a gratuity is to be paid shall be 184 days: Provided that, in the case of a female officer who resigns or is discharged from the service of the institution on account of her marriage, the maximum shall be 92 days.

(5) The maximum leave mentioned in subregulation (4) shall be reduced in the case of -

- (a) an officer or employee retiring in the circumstances mentioned in regulation 27, by the number of days vacation leave in excess of 92 days taken by him during his last year of service; and
- (b) a female officer who resigns or is discharged from the service of the institution on account of her marriage, by the number of days vacation leave in excess of her annual leave accrual taken by her during her last year of service:

Provided that vacation leave taken in lieu of sick leave with half pay or sick leave without pay shall be disregarded for the purposes of this subregulation.

(6) The amount of the leave gratuity shall be calculated by employing the formula $\frac{A \times B}{365}$, where A represents the sum of the annual salary of the officer or employee and the annual equivalent of such allowances as have been specifically approved by the Secretary for leave gratuity purposes and as apply to him on his last day of service, and where B represents the officer's or employee's commutable leave credit, subject to the maximum or reduced maximum determined in accordance with subregulations (4) and (5) respectively.

(7) Except in the case of death, the gratuity shall be payable to the officer or employee concerned if he has completed not less than five years' continuous satisfactory service upon the date of termination of his service: Provided that -

- (a) the period of satisfactory service of five years need not necessarily be immediately prior to the date of termination of service;
- (b) for the purpose of calculating the period of service, any period of military service which has been declared by the Secretary for Social Welfare and Pensions as reckonable for provident fund or pension purposes, as well as [subject to regulation 35(2)] any period of full-time temporary service continuous with permanent service, shall be included; and
- (c) in the case of a female officer who resigns in contemplation of marriage, the gratuity shall only be payable if the marriage is performed within three months of the date on which the resignation becomes effective.

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(8) Should an officer's or employee's service terminate by reason of death, the gratuity shall be payable by the Council to the widow or, in case there is no widow, in equal shares to or for the benefit of the minor children of the deceased who were wholly dependent on him at the time of his death.

(9) In cases where the deceased is not survived by a widow or by a minor child who was wholly dependent on him but leaves any other dependant, a council may pay to such dependant an amount determined by the Secretary.

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

(10) The gratuity payable to an officer or employee (but not a gratuity payable to a widow, dependent child or other dependant) shall be set-off against any amount owing by him to the institution, unless such debt can be recovered from outstanding salary and allowances or provident fund or pension moneys.

PART VI.—OFFICERS AND EMPLOYEES—OFFICIAL QUARTERS

67. An officer or employee who occupies or is required to occupy any dwelling, flat or room which is the property of the Government, shall pay rental on the same basis and be subject to the same terms and conditions governing the tenancy of official quarters as would apply to an officer in the Public Service in terms of the regulations made under section 26(1)(a) of the Public Service Act, 1957.

PART VII.—MISCONDUCT AND INEFFICIENCY

Misconduct by Officers

68. An officer employed at an institution shall be guilty of misconduct and may be dealt with in accordance with the provisions of regulation 69, if he -

- (a) contravenes or fails to comply with any provision of the Act, with which it is his duty to comply;
- (b) does, or causes, or permits to be done, or connives at, any act which is prejudicial to the administration, discipline or efficiency of an institution;
- (c) disobeys, disregards or makes wilful default in carrying out a lawful order given to him, or by word or conduct displays insubordination;
- (d) is negligent or indolent in the discharge of his duties;

[paragraph (d) corrected by RSA GN R.3469/1969]

- (e) undertakes, without the permission of the council, any private agency or private work in connection with any matter connected with the performance of his official functions or the discharge of his official duties;
- (f) publicity comments adversely upon the administration of an institution;
- (g) attempts to secure intervention, through any person not in the employment of the institution, in relation to his position and conditions of service, unless it is done to obtain redress of any grievance through Parliament;

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[paragraph (g) corrected by RSA GN R.3469/1969]

- (h) conducts himself in a disgraceful, improper or unbecoming manner, or, whilst on duty, is grossly discourteous to any person;
- (i) uses intoxicants or stupefying drugs excessively, or whilst he is or should be on duty, is under the influence of intoxicants or stupefying drugs to an extent which is prejudicial to the institution or to the efficient performance of his duties, unless it is proved that it is not due to any improper conduct or action on his part;
- (j) becomes insolvent or compromises with his creditors or if a decree of civil imprisonment is made against him by any court of law, unless it is shown that his insolvency or such composition or the making of such decree against him has been occasioned by unavoidable misfortune;
- (k) becomes pecuniarily embarrassed, unless it is shown that his pecuniary embarrassment has not been occasioned by imprudence or other reprehensible cause, and is not prejudicial to the faithful performance of his duties;
- (l) without first having obtained the permission of the director, discloses otherwise than in the discharge of his official duties, information gathered or obtained by him through his employment or uses such information for any purpose other than for the discharge of his official duties, whether or not he discloses such information;
- (m) accepts or demands in respect of the discharge of or the failure to discharge his duties any commission, fee, or other reward, not being the emoluments payable to him in respect of his duties, or fails to report to the council the offer of any such commission, fee or reward;
- (n) misappropriates or improperly uses any property of the institution and such misappropriation or use does not constitute an offence;
- (o) commits an offence;
- (p) absents himself from his office or duty without leave, unless he can prove a valid cause for his absence; or
- (q) with a view to obtaining any privilege or advantage in relation to his official position or his duties, or to causing prejudice or injury to the institution or to any person in the service of the institution, makes a false or incorrect statement, knowing it to be false or incorrect.

Procedure

69. (1) If an officer is accused of misconduct as defined in regulation 68, the chairman of the council or any person authorised thereto by him may charge him, in writing, under his hand with that misconduct.

(2) The person who signed the charge shall serve it upon the person charged by causing it to be delivered or sent by registered letter to him, or to be left at his place of residence or last known place of residence.

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(3) The charge shall contain or shall be accompanied by a direction calling upon the person charged to transmit or deliver, within a period which is to be specified in such direction and is to be reasonable, to a person likewise specified, a written admission or denial of the charge and, if he so desires, a written explanation of the misconduct with which he is charged.

(4) The Chairman or, if authorised thereto by him either generally or in a particular case, the director or any other officer, may suspend from duty any person accused of misconduct, as defined in regulation 68, whether or not such person has been charged with misconduct.

(5) The Chairman or the other person who suspended any person in terms of subregulation (4), may at any time cancel the suspension, but the cancellation of the suspension shall not effect any proceedings in connection with the charge of misconduct.

[The word “affect” is misspelt in the *Government Gazette*, as reproduced above.]

(6) A person who has been suspended from duty in terms of subregulation (4), shall not be entitled to any emoluments in respect of the period of his suspension: Provided that the Secretary may order payment to the said person of the whole or a portion of his emoluments.

(7) If no charge under this regulation is preferred against a person who has been so suspended from duty, he shall be allowed to resume duty as soon as practicable and be paid his emoluments in respect of the period of his suspension in so far as it has not been done already.

(8) (a) If the person charged admits the charge, he shall be deemed to have been found guilty in terms of this section of the misconduct with which he has been charged.

(b) If the person charged denies the charge or fails to comply with the direction mentioned in subregulation (3), the council shall appoint a person approved by the Secretary, to inquire into the charge.

(9) (a) The person who is to hold the enquiry shall, in consultation with the person who signed the charge, fix the time and place of enquiry, and the person who signed the charge shall give the person charged reasonable written notice of the time and place so fixed: Provided that the Chairman shall have the power to postpone the inquiry on good cause shown.

(b) The law relating to witnesses and evidence which applies in connection with criminal cases in a magistrate’s court, shall *mutatis mutandis* apply for the purposes of and at any such enquiry: Provided that the subpoenas to procure the attendance of witnesses thereat shall be issued by the person who is to hold the enquiry.

(10) The person who signed the charge may authorise any person to be present at the inquiry and to adduce evidence and arguments in support of the charge, and to cross-examine any person called as a witness for the defence.

(11) (a) At the enquiry the person charged may be present, shall have the right to be heard, to cross-examine any person called as a witness in support of the charge, to inspect any documents produced in evidence and to call other persons as witnesses, either personally or by a representative, and may give evidence himself.

(b) The failure of the person charged to be present at the inquiry, either personally or by a representative, shall not invalidate the proceedings.

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- (c) The person holding the inquiry shall keep a record of the proceedings at the inquiry and of the evidence given thereat.

(12) If the misconduct with which any person is charged, is the commission of an offence and it is proved that he has been convicted thereof by a court of law, a certified copy of the record of his trial and conviction by that court shall be prima facie evidence of the commission by him of that offence.

(13) The person holding the inquiry shall after the conclusion thereof decide whether the person charged is guilty or not guilty of the misconduct with which he has been charged and inform him and the Chairman, of his decision.

(14) If the person holding the inquiry finds that the person charged is not guilty of the misconduct with which he has been charged and the person charged was suspended from duty in terms of subregulation (4), he shall be allowed to resume duty as soon as practicable and be paid his emoluments in respect of the period of his suspension in so far as it has not been done already.

(15) If the person holding the inquiry finds that the person charged is guilty of the misconduct with which he has been charged, the person charged may within 14 days of the date on which he was informed of the finding, appeal therefrom to the Minister by delivering or posting to the person who held the inquiry a written notice of appeal setting forth fully the grounds on which the appeal is based.

(16) If the person holding the inquiry finds that the person charged is guilty of the misconduct with which he has been charged, he shall -

- (a) after expiry of the period referred to in subregulation (15), forward to the Chairman -
- (i) the record of the proceedings at the inquiry;
 - (ii) the documentary evidence admitted thereat;
 - (iii) a statement of his findings and his reasons therefor;
 - (iv) any observation which he may wish to make on the case; and
 - (v) if there is an appeal from his finding in terms of subregulation (15), the notice of appeal; and
- (b) if there is such an appeal from his finding, furnish the appellant with a copy of his reasons for the finding.

(17) If the appellant applies to the Chairman for a copy of the record of the proceedings at the inquiry and of the documentary evidence admitted thereat, within seven days of the date upon which he was furnished with a copy of the reasons for the finding, the Chairman shall furnish him with it.

(18) The appellant may, if he has made an application in terms of subregulation (17), within 14 days of the date upon which he was furnished with the copy in question, or if he did not make such an application, within 21 days after the date upon which he was furnished with the copy of the reasons for the finding, submit to the Chairman written representations in support of his appeal, and the Chairman shall after receipt thereof or, if he did not receive such

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representations within the prescribed period, after the expiry of such period, submit to the Minister the record of the proceedings at the enquiry, the other documents in his possession which relate to the inquiry or appeal, and his recommendation concerning the appeal.

(19) After consideration of the record and other documents in question the Minister may allow the appeal in whole or in part and set aside or vary the finding, dismiss the appeal and confirm the finding, or, before arriving at a final decision on the appeal, remit any matter in connection with the inquiry to the person who held the inquiry and direct him to report thereon or to hold a further inquiry and to arrive at a finding thereon.

[subregulation (19) corrected by RSA GN R.3469/1969]

(20) If the Minister has directed that a further inquiry be held, the provisions of subregulations (9), (10) and (11) shall apply in respect thereof.

(21) If the Minister has arrived at a final decision on the appeal, he shall convey that decision, in writing, to the appellant and the Chairman.

(22) If the Minister allows the appeal and the appellant has been suspended from duty in terms of subregulation (4), he shall be allowed to resume duty as soon as practicable and be paid his emoluments in respect of the period of his suspension in so far as it has been done already.

(23) If the person charged has admitted the charge of misconduct as is contemplated in subregulation (3), or if he has been found guilty of misconduct in terms of subregulation (13) and has not appealed therefrom within the period prescribed, or has appealed therefrom and the appeal has been dismissed wholly or in part in terms of this regulation, the Chairman shall, subject to the provisions of subregulation (24), recommend to the Minister that -

- (a) the person charged be cautioned or reprimanded;
- (b) a fine, not exceeding two hundred rand, be imposed upon the person charged;

[paragraph (b) corrected by RSA GN R.3469/1969]

- (c) the person charged be transferred to another post;
- (d) the emoluments or rank or both the emoluments and rank of the person charged be reduced; or

[paragraph (d) corrected by RSA GN R.3469/1969]

- (e) the person charged be discharged from the service of the institution or be called upon to resign therefrom.

[The phrase “the resign therefrom” was obviously intended to be “to resign therefrom”.]

- (24) (a) Except where the Chairman makes a recommendation under paragraph (a) or (e) of subregulation (23), he may make a recommendation under more than one of the other paragraphs of that subregulation.
- (b) The Chairman may, with the approval of the Secretary, postpone for a period not exceeding 12 months the making of a recommendation under subregulation (23).

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- (25) (a) The Minister may approve the recommendation made by the Chairman in terms of subregulation (23) or approve anything else which he could have approved if the Chairman had recommended it in terms of that subregulation.

[paragraph (a) corrected by RSA GN R.3469/1969]

- (b) If a fine is imposed upon any person in terms of this subregulation, such fine may be recovered by deducting it from his emoluments in such instalments as the Minister may determine.
- (c) If the Minister approves the discharge of any person in terms of this subregulation, the discharge shall take effect on a date fixed by the Minister.
- (d) If the Minister in terms of this subregulation approves that any person be called upon to resign from the service of the institution and such person fails so to resign with effect from a date fixed by the Minister, he shall be deemed to have been discharged in terms of this subregulation from such service with effect from that date.

(26) If any person has been suspended from duty in terms of subregulation (4) and the Minister approves that he be dealt with in a manner contemplated in subregulation (23)(a), (b), (c) or (d), or the Chairman deals with him in accordance with subregulation (24)(b), such person shall be allowed to resume duty in an appropriate post as soon as practicable and be paid his emoluments in respect of the period of his suspension in so far as it has been done already: Provided that if the emoluments or rank of such person is reduced as is contemplated in subregulation (23)(d), his emoluments in respect of the period of his suspension shall be calculated on the basis of the reduced emoluments or rank, as the case may be: Provided further that if in respect of the period of his suspension emoluments in excess of the emoluments so calculated have already been paid to him in terms of subregulation (6), he shall not be obliged to refund the excess.

(27) If any person who has been suspended or charged with misconduct in terms of this regulation, resigns from the service of the institution or assumes other employment before the appropriate charge of misconduct has been disposed of under this regulation, he shall be deemed to have been discharged on account of misconduct from such service with effect from a date fixed by the Minister, unless prior to the receipt of his notification of resignation or his assumption of other employment, he was notified that he would not be charged with misconduct or, as the case may be, that the charge of misconduct against him had been withdrawn.

(28) The fact that a person has been convicted or acquitted by a court of law of the commission of an offence, shall not preclude the taking of any steps in terms of this regulation against such person.

(29) Whenever it is provided by this regulation that the Chairman is to submit a recommendation or document to the Minister, the Chairman shall send such recommendation or document to the Secretary, who shall submit it to the Minister together with any comments he may wish to make thereon.

Inefficiency

70. (1) If it is alleged that any officer is unfit for, or is incapable of performing efficiently, the duties attached to his post from causes not within his control and not attributable to the performance of his duties in the employment of the institution, the Chairman may appoint a person to inquire into the allegation.

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(2) The provisions of subregulations (9), (10), (11), (13), (15) to (21), inclusive, (23), (25)(a) and (c) and (29) of regulation 69 shall *mutatis mutandis* apply in respect of any inquiry referred to in subregulation (1) and the officer in respect of whom the allegation was made: Provided that in the application of the said subregulation (23) the Chairman shall only have the power to recommend that the officer in question be discharged from the service or the institution or that his rank be reduced and, if his emoluments are more than the maximum for the reduced rank, such emoluments be reduced to that maximum.

[subregulation (2) corrected by RSA GN R.3469/1969]

Manner of Notice

71. Whenever by regulation 69 or 70 it is provided that -
- (a) any notice, statement or other document is to be given or furnished to or served upon any person, or that any matter is to be or may be conveyed to any person in writing, such notice, statement, document or writing may be sent by post in a registered letter or be delivered personally to him or left at his last known place of residence; or
 - (b) any person is to be informed of any decision or finding, he may be informed thereof verbally or by a document sent by post in a registered letter or delivered personally to him, or left at his last known place of residence.

Irregularities

72. (1) The Minister may appoint any person to conduct an inquiry into any alleged irregularity in connection with the affairs of an institution.

(2) The person so appointed shall, after completion of the inquiry, submit to the Minister a report containing the evidence taken, his findings, and if necessary, his recommendations.

(3) The provisions of regulation 69 (9), shall *mutatis mutandis* apply to any inquiry held in accordance with this regulation.

PART VIII.—FINANCES AND REPORTS

Financial Year

73. The financial year of an institution shall, unless the Minister decides otherwise, be the year ending on 31 March.

Banking Account

74. (1) A council shall keep a banking account in the name of the institution with a banking institution registered in terms of the Banking Act, 1965.

(2) All moneys received by the institution from whatever source shall be paid into such banking account.

(3) Cheques shall be signed by the director or by an officer specially authorised thereto by the council and countersigned by the chairman of the council or by any member of the council specially authorised thereto by the council.

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Borrowing of Money

75. Except with the prior approval of the Secretary, a council shall not make an overdraft on its banking account.

Investment of Funds

76. A council may invest moneys not required for immediate use -

- (a) in stocks or debentures;
- (b) on deposit in a trust account at a banking institution referred to in regulation 74; or

[paragraph (b) corrected by RSA GN R.3469/1969]

- (c) on loan with a building society registered in terms of the Building Societies Act, 1965, or with any other body established by law.

Books of Account

77. The director shall ensure that the following books of account are properly maintained and kept in safe custody -

- (a) a cash book, in which all receipts and payments shall be entered;
- (b) a petty cash book, in which all petty cash payments shall be entered;
- (c) a ledger, in which detailed accounts shall be kept in respect of every fund and service;
- (d) an abstract book, in which all expenditure shall be allocated under the various subheads;
- (e) a remittance register for entering all postal remittances;
- (f) a duplicate receipt book (which shall be printed with the name of the institution and in numerical sequence) for the issue of receipts in respect of all moneys received; and
- (g) a duplicate bank deposit book.

Accounting for Revenue and Expenditure

78. The director shall account for the revenue and expenditure of the institution under the following appropriate subheads and items and such other additional items as the Secretary may indicate: -

[regulation 78 corrected by RSA GN R.3469/1969]

Revenue

Subhead 1.—*Grant-in-aid/Contributions*

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Item—

- (a) State grant-in-aid
- (b) Vacation savings bonus
- (c) Provincial Administration
- (d) Municipality
- (e) Other (specify)

Subhead 2.—*Admission and other fees*

Item—

- (a) Admission fees
- (b) Membership fees
- (c) Other (specify)

Subhead 3.—*Donations*

Item—

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

Subhead 4.—*Interest and dividends*

Item—

- (a) On trust fund investments
- (b) On other investments
(Reserve and special funds included)

Subhead 5.—*Rentals*

Subhead 6.—*Sales*

Item—

- (a) Publications
- (b) Other (specify)
- (c) Other (specify)

Subhead 7.—*Miscellaneous receipts*

Expenditure

Subhead A.—*Salaries, wages and allowances*

Item 1.—Approved posts (White staff)—

- (a) Salaries
- (b) Vacation savings bonus
- (c) Other allowances

Item 2.—Approved posts (non-White staff excluding those mentioned in item 3)—

- (a) Salaries and wages
- (b) Allowances

Item 3.—Casual labourers

- (a) Salaries and wages
- (b) Allowances

Item 4.—Pension, medical and provident fund contributions (council's contributions)—

Item 5.—Pensions and gratuities

Item 6.—Honoraria

Subhead B.—*Subsistence and transport expenses* (excluding museum collection expeditions)

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- Item 1.—Subsistence expenses
- Item 2.—Transport expenses (including maintenance and repair of vehicles, but not purchase)

Subhead C.—*Postage, telegrams and telephones*

Subhead D.—*Printing, stationery, advertisements and publications*

- Item 1.—Printing
- Item 2.—Stationery
- Item 3.—Advertisements
- Item 4.—Publications

Subhead E.—*Miscellaneous expenditure*

- Item 1.—Bookkeeping fees
- Item 2.—Audit fees
- Item 3.—Banking charges (except interest on overdrafts)
- Item 4.—Interest on approved overdrafts and loans
- Item 5.—Bantu levies and registration fees
- Item 6.—Cleaning material
- Item 7.—Direct services (P.W.D.)
- Item 8.—Maintenance and repairs
- Item 9.—Fuel, electricity and water
- Item 10.—Insurance (including unemployment and workmen's compensation insurance)
- Item 11.—Membership fees
- Item 12.—Uniforms
- Item 13.—Entertainment
- Item 14.—Other (specify)

Subhead F.—*Special institutional expenditure*

- Item 1.—Library (purchase of books, periodicals, special library equipment, binding costs, etc.)
 - Item 2.—Collecting expeditions
 - Item 3.—Equipment, tools and chemicals
 - Item 4.—Furniture (including show-cases)
 - Item 5.—Exhibitions
 - Item 6.—Motor vehicles (purchase)
 - Item 7.—Exhibits (purchase)
 - Item 8.—Other (specify)
 - Item 9.—Other (specify)
- etc.

Estimates of Revenue and Expenditure

79. The director shall submit to the Secretary during the month of August in every year a statement indicating the estimated -

- (a) expenditure on salaries, wages and allowances payable to staff (excluding casual labourers) in respect of the current financial year.
- (b) vacation savings bonus payable during the next financial year; and
- (c) revenue in respect of the current financial year -
 - (i) admission fees;

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- (ii) membership fees; and
- (iii) donations (specify)

**[There should be a full stop at the end of subparagraph (iii);
there are no additional words in the *Government Gazette*.]**

Reports

80. (1) The council shall report to the Minister at the end of every financial year, on the activities of the institution.

(2) The director shall submit to the council the audited accounts of the income and expenditure of the institution for each financial year and a balance sheet of its assets and liabilities as at the last day of such financial year, within one month after such accounts have been received from the auditor, and at the same time lodge with the Secretary copies of such accounts and balance sheet.