



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N\$1.20

WINDHOEK - 16 March 1996

No. 1276

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General Notice

No. 49 1996

MUNICIPAL COUNCIL OF OKAHANDJA PERSONNEL RULES

The Municipal Council of Okahandja has, under section 27(1)(c) of the Local Authorities Act, 1992 (Act 23 of 1992), made the rules set out in the Schedule.

BY ORDER OF THE COUNCIL

M. SORESEB
CHAIRPERSON OF THE COUNCIL

Okahandja, 28 February 1996

SCHEDULE

Definitions

1. In these rules, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Local Authorities Act, 1992, shall bear that meaning and -

"employee", includes an officer of the Council and, except for the purposes of rules 2, 9(1) and 13(1) to (4), the chief executive officer;

"the Act" means the Local Authorities Act, 1992 (Act 23 of 1992).

Annual salary increase

2. (1) The annual salary increase of the chief executive officer and a head of a department shall be determined by the management committee.

(2) Subject to rule 15(5), the chief executive officer or the head of a department, as the case may be, may grant an annual salary increase of one notch of the appropriate approved salary scale to an employee under his or her control who has performed his or her duties satisfactorily during the preceding year and who qualifies for such increase under his or her conditions of service.

(3) Where the chief executive officer or the head of a department has refused to grant a salary increase to an employee who is, under his or her conditions of service, entitled to an increase, the chief executive officer or head of a department, as the case may be, shall forthwith inform that employee in writing of the reason why the increase was refused and report the matter to the management committee accordingly.

(4) (i) Subject to rule 15(5), the management committee may, after having afforded the employee concerned an opportunity to make representations, grant the salary increase to the employee either wholly or in part or withhold it for any period determined by it which falls within the year in which that increase was refused as contemplated in that subrule.

Prohibition on cession of remuneration

3. Subject to the provisions of any law, an employee shall not without the written permission of the Council cede, transfer or assign his or right or claim in respect of any remuneration due to him or her, and the Council shall not pay any amount owing by it to an employee to any other person unless such person acts as the duly authorised agent of the employee by virtue of a written power of attorney.

Membership of pension fund and medical aid fund

4. (i) Every employee, including an employee appointed on probation, shall become a member of -

- (a) (i) a pension fund established by the Council; or
- (ii) any other pension fund to which the Council contributes on behalf of its employees; and
- (4) (2) Every employee, including an employee appointed on probation, may become a member of a medical aid fund to which the Council contributes on behalf of its employees.

Costs of transport and travel

5. (1) If any person who is not ordinarily resident in the local authority area is recruited as an employee, the Council may, subject to such conditions as it may determine -

- (a) defray the costs relating to -
 - (i) his or her journey and that of his or her family to the area, in so far as such costs do not exceed the costs of first class travel by train;
 - (ii) the transport to the area to or from a warehouse before or after storing, of his or her effects and those of his or her family, or relating to the storing of such effects;
- (b) pay a subsistence allowance to such person and every member of his or her family for the period calculated from the time of their departure to the time of their arrival in the area.

(2) The Council shall reimburse an employee who is required to travel in the course of his or her official duty, the costs of conveying himself or herself and his or her personal luggage, as well as all reasonable expenditure incurred in connection with taxi hire, air fare, rail costs, insurance, portorage, gratuities, landing or shipping fees and other incidental services.

(3) When an employee uses his or her private transport in the course of his or her official duty within the local authority area, the Council shall pay a transport allowance to such employee for the period during which the employee actually uses such transport.

(4) Notwithstanding subrule (3), the Council may pay a fixed monthly amount, which shall not exceed the equivalent of the allowance paid in terms of that subrule, to an employee who regularly uses the transport contemplated in that subrule.

Subsistence allowance

6. (1) Subject to the provisions of this rule, the Council shall pay a subsistence allowance to an employee for the duration of his or her absence from the local authority area if he or she is required to travel in the course of his or her official duty.

(2) If the subsistence allowance referred to in subrule (1) is inadequate to cover the reasonable expenses incurred by an employee referred to in that subrule, the Council shall, subject to such conditions as it may determine, pay an amount to the employee which is equal to the difference between the amount of such expenses and the amount of such allowance.

(3) An employee referred to in subrule (1) shall, in lieu of a subsistence allowance, be reimbursed on such conditions as the Council may determine in respect of his or her reasonable expenses incurred if the period of his or her absence is less than 24 hours.

Acting allowance

7. If an employee temporarily acts in a post of a grade which is higher than that of the post which he or she holds, the Council may pay an acting allowance to such employee which shall not exceed the amount equal to the difference between the minimum salary of the post which such employee holds and the minimum salary of the post in which he or she acts.

Application for leave

8. (1) An application for leave to be granted under this rule, shall be made in writing in the form determined by the Council.

(2) When an application for leave has been approved, the application form shall be forwarded to the employee responsible for keeping the leave register and who shall make or cause the necessary entries to be made in the leave register.

Maximum number of days annual vacation leave

9. (1) Subject to the conditions of service applicable to an employee on the day immediately before the commencement of these Rules, the Council shall, on the following basis, grant vacation leave on full remuneration to every employee in respect of each period of 12 consecutive months for which he or she is employed by the Council:

- | | | |
|-----|--|--|
| (a) | The chief executive officer and a head of a department | 30 working days |
| (b) | An employee who receives a basic salary of N\$24 000 or more per annum | 27 working days |
| (c) | An employee who receives a basic salary of less than N\$24 000 per annum | (i) 24 working days if the employee works five days during a week (ii) 29 working days if the employee works six days during a week |

- (2) If an employee on annual vacation leave departs to a destination outside Namibia, the Council may grant him or her two additional working days as travelling time.

Sick leave

10. (1) Subject to subrule (2) and the conditions of service applicable to an employee on the day immediately before the commencement of these Rules, the Council shall grant sick leave to every employee who is absent from work through incapacity on the basis of 120 working days sick leave in the aggregate on full remuneration and 120 working days in the aggregate on half remuneration during each period of 36 consecutive months (in this rule referred to as the cycle).

(2) Sick leave accrues to an employee on the first day of a cycle and as from that day the full complement of the cycle concerned may be granted to him or her except that during the first year of employment not more than four days sick leave on full pay and four days sick leave on halfpay may be granted for every completed month of employment.

- (3) (a) If an employee is absent from duty through incapacity for a period of three or more consecutive days, sick leave may be granted to him or her only if he or she submits a certificate (in this rule referred to as a certificate of indisposition) from a registered medical practitioner or a registered dentist in which

- (i) the nature of the incapacity is clearly described;
- (ii) it is declared that such employee is unable to perform his or her official duties; and
- (iii) the period required for his or her recovery is indicated.

- (b) The Council may in its discretion require the submission of a certificate of indisposition in respect of periods of three days or less.

(4) Notwithstanding subrule (3), the Council may, if it is satisfied that the employee's absence was *bona fide* due to illness and that good reasons exist why a certificate of indisposition was not submitted, exempt such employee from the submission of such certificate in respect of a continuous period of sick leave not exceeding 14 days.

(5) Sick leave in respect of which a certificate of indisposition was not submitted, may be granted only for the aggregate of 10 days during any calendar year and any further absences shall be covered by the vacation leave standing to the credit of the employee concerned.

(6) The Council may at any time require any employee who applied for sick leave to subject himself or herself to an examination by a registered medical practitioner or registered dentist appointed by the Council.

(7) If an employee to whom vacation leave is granted becomes incapacitated, the Council may convert the portion of his or her vacation leave during which he or she is so incapacitated into sick leave if the employee submits a certificate of indisposition.

(8) An employee to whom sick leave is granted on half remuneration may choose to be granted vacation leave instead of such sick leave.

(9) Nothing contained in these Rules shall preclude the termination of employment of an employee on the grounds of ill-health before the maximum or any period of sick leave has been granted.

Bonus leave

11. (1) Subject to subrule (2) and the conditions of service applicable to an employee on the day immediately before the commencement of these Rules, the Council may grant bonus leave to an employee after completion of such period of continuous employment as the Council may determine.

(2) (a) The Council shall not grant bonus leave to an employee unless he or she has been in the continuous employment of the Council for a period of at least five years.

(b) The Council may, for the purpose of calculating the period referred to in paragraph (a), take into account a period of continuous employment not exceeding five years preceding the commencement of these Rules.

(3) The number of bonus leave days shall, in respect of -

(a) the first period of continuous employment of the employee concerned, not exceed 90 days;

(b) each year of continuous employment after that first period, not exceed 18 days.

(4) The Council may in lieu of granting bonus leave to an employee, pay an amount in cash to him or her calculated on a basis in terms of which not more than one day's pensionable salary and pensionable allowances are paid in respect of every day of bonus leave standing to the credit of that employee.

(5) Bonus leave which has not been taken may be accumulated subject to such limitations and conditions as the Council may determine.

(6) If an employee dies, the value of all bonus leave standing to his or her credit shall be paid to his or her widow or widower, as the case may be, or if there is no such widow or widower, in equal shares to his or her children, or if there is not such children, into his or her estate.

Special leave

12. The Council may, subject to such conditions as it may determine, grant special leave grant to an employee who -

- (a) is selected by a recognised non-professional sports association to -
 - (i) take part, as a member of an organized sports group, in a sports tour outside Namibia, whether as competitor, coach or manager;
 - (ii) represent Namibia, as a competitor, coach or manager at an international sporting event in Namibia;
 - (iii) accompany a foreign national team visiting Namibia, as a representative of the Namibian sports association organising the tour;
- (b) is absent from duty as a result of isolation on medical instructions where he or she was in contact with a person who has contracted or is suspected of having contracted an infectious or contagious disease;
- (c) is arrested or has to appear before a court on a criminal charge and he or she is subsequently acquitted or the charge is withdrawn;
- (d) is summoned as witness in proceedings before a court of law or a commission of enquiry;
- (e) has to study and sit for an examination approved by the Council;
- (f) has no vacation leave to his or her credit and the Council is satisfied that due to special circumstances not otherwise referred to in these Rules, special leave should be granted to him or her.

Grievances

13. (1) An employee, except the chief executive officer or the head of a department, who has a grievance or complaint in connection with his or her employment, may submit such grievance or complaint writing to the head of the department in which he or she is employed, or in the case of an employee who is not employed in a department, the chief executive officer, who may take such steps as he or she considers appropriate: Provided that such head or the chief executive officer shall immediately notify the employee in writing thereof.

(2) If an employee is not satisfied with the steps contemplated in subrule (1), he or she may submit his or her grievance or complaint to the management committee by addressing his or her representations to the chief executive officer for submission to the management committee.

(3) Any head of a department who has a grievance or complaint in connection with his or her employment, may submit such grievance or complaint to the management committee by addressing his or her representations to the chief executive officer for submission to the management committee, and if the chief executive officer has such grievance or complaint, he or she may submit his or her grievance or complaint directly to the management committee.

(4) If the head of a department is not satisfied with the decision of the management committee, such head may submit his or her grievance or complaint to the Council by addressing his or her representations to the chief executive officer for submission to the Council, and if the chief executive officer is not so satisfied, he or she may submit his or her grievance or complaint directly to the Council.

(5) No employee shall make any representations on any matter concerning a grievance or complaint in connection with his or her employment except as provided in this rule.

Misconduct

14. (1) An employee shall be guilty of misconduct if he or she -
- (a) disobeys any lawful order given to him or her in the course of his or her official duties by any person authorized thereto;
 - (b) is negligent in the performance of his or her official duties;
 - (c) allows or orders any person subordinate to him or her to do any work not connected with his or her official duties;
 - (d) without the permission of the Council, makes any statement -
 - (i) at any public meeting on any matter relating to the policy, activities or management of the Council; or
 - (ii) to the media in connection with the policy, activities or management of the Council;
 - (e) conducts himself or herself in a disgraceful, improper or unbecoming manner, whether in the performance of his or her official duties or not, or whilst on duty is grossly discourteous to any person;
 - (f) is under the influence of alcohol or drugs when on official duty, or when he or she reports or has to report for official duty;
 - (g) becomes insolvent or if his or her estate is placed under administration, unless he or she can prove to the satisfaction of the Council that it was caused by unavoidable circumstances;
 - (h) discloses information gained by him or her in the course of his or her official duties, otherwise than in the performance of such duties;

- (i) uses information gained or obtained by him or her in the course of his or her official duties for any purpose other than the discharge of his or her official duties;
- (j) misappropriates or improperly uses the property or funds of the Council whether such misappropriation or improper use amounts to a criminal offence or not;
- (k) is convicted of an offence of which dishonesty is an element, or any other offence in respect of which he or she is sentenced to actually serve a term of imprisonment without the option of a fine;
- (l) absents himself or herself from his or her office or official duty without leave or valid cause;
- (m) accepts without permission of the Council, or demands in respect of the carrying out of his or her duties, any commission, fee or reward, pecuniary or otherwise, to which he or she is not entitled by virtue of his or her office or official duties, or fails to report the offer of any such commission, fee or reward to the Council;
- (n) wilfully makes an incorrect or false statement, whether for the attainment of some privilege or benefit in connection with his or her position or official duties or for any other reason;
- (o) borrows money from a subordinate employee or from any other person who renders services to Council which are supervised by him or her, or if he or she requests such subordinate employee or person to stand surety for him or her;
- (p) takes part, except in the performance of his or her official duties, in activities relating to the election of persons as members of the Council or, if he or she has accepted nomination for such election, takes part in such activities during any period other than the period of leave referred to in section 7(3) of the Act;
- (q) refuses to answer satisfactorily questions lawfully put to him or her in connection with an alleged contravention of these regulations.

(2) The acquittal or the conviction of an employee by a court of law upon a charge of any offence shall not be a bar to proceedings against him or her under the Act, on a charge of misconduct, notwithstanding the fact that the facts set forth in the charge of misconduct would, if proved, constitute the offence set forth in the charge on which he or she was so acquitted or convicted or any other offence of which he or she may have been convicted on his or her trial on the said first-mentioned charge.

(3) If the misconduct with which an employee is charged amounts to an offence of which he or she has been convicted by a court of law, a certified copy of the record of his or her trial and conviction by that court shall, upon the identification of such employee as the person referred to in the record, be sufficient proof of the

commission by him or her of such offence, unless the conviction has been set aside by a superior court or unless the person charged proves that he or she had in fact been wrongly convicted.

Suspension

15. (1) The Council may, at any time before or after an employee is charged under this rule, suspend the employee if the Council has reason to believe that he or she is guilty of misconduct.

(2) Any employee suspended under subrule (1) shall not be entitled to any remuneration for the period of his or her suspension, except to such extent as the Council may otherwise direct.

(3) Any employee who has been suspended shall forthwith be permitted to reassume his or her official duty and shall be paid his or her full remuneration for the period of his or her suspension -

- (a) if no charge of misconduct is brought against him or her under section 29 of the Act within a reasonable time;
- (b) if he or she is found not guilty on any such charge;
- (c) if his or her appeal is allowed against any finding that he or she is guilty on any such charge;
- (d) if he or she is dealt with in accordance with paragraph (g)(i)(aa), (bb) or (cc) of section 29(6) of the Act: Provided that where he or she is dealt with in accordance with paragraph (g)(i)(cc) of that section, duty shall be assumed at the reduced salary or in the lower grade or both at the reduced salary and in the lower grade and the reduced salary shall also be paid for the period of suspension unless payment at the former higher salary has already taken place during that period.

(4) The suspension of an employee may at any time be cancelled by the Council, but the proceedings in connection with the charge of misconduct may be proceeded with notwithstanding the cancellation.

(5) If an employee was, due to his or her suspension, not entitled to any remuneration for the period of his or her suspension, the date of his or her next annual salary increase shall be deferred by a period equal to the period of suspension and that period shall, for the purposes of the calculation of his or her sick, vacation or bonus leave, be deemed not to have been a period during which he or she was employed by the Council.