

# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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## General Notice

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### MUNICIPALITY OF WINDHOEK

No. 296	2004
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#### WINDHOEK MUNICIPAL POLICE SERVICE REGULATIONS: POLICE ACT, 1990

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

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## CHAPTER 1

### PRELIMINARY PROVISIONS

#### Definitions

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

“area of jurisdiction” means the local authority area for the Municipality of Windhoek;

“board of inquiry” means the board of inquiry established under regulations 8, 18 or 19;

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

“City of Windhoek” means the Municipality of Windhoek;

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

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

“Head” or “Head of the Service” or “City Police Chief” or “Windhoek City Police Chief” means the person appointed under regulation 5 of the Municipal Police Service Regulations to be the Head of the Service;

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

“management committee” means the management committee of the Council as defined in section 1 of the Local Authorities Act, 1992;

“member” means a person appointed as member of the Windhoek City Police Service and includes, unless the context requires otherwise, the Head or a Deputy Head or Senior Superintendent;

“misconduct” means -

- (a) the commission or omission of an act referred to regulation 48;
- (b) any contravention of these regulations, the Act or Regulations; or
- (c) the commission of any offence;

“Pension Fund” means a pension fund established under section 27(1)(c)(ii)(bb) of the Local Authorities Act, and includes a united pension fund to which the Council contributes on behalf of its members;

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

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

“Service” or “Windhoek Municipal Police Service” or “City Police” or “Windhoek City Police Service” means the Service established under regulation 2;

“staff member” means a person employed permanently or temporarily on a full-time or part-time basis or under a contract of employment, or in a post additional to the establishment, of the Council but excludes a member; and

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

## CHAPTER 2

### WINDHOEK CITY POLICE SERVICE

#### Establishment of Service

**2.** The Municipal Police Service for the Municipality of Windhoek established by the Council under section 43C(1) of the Act read with regulation 2 of the Regulations, and known as the Windhoek City Police Service, acronyms “WCPS” or “City Police”, is consisting of all persons appointed as members in terms of subregulation (6) of regulation 9, and other persons appointed under that regulation.

## CHAPTER 3

### FIXED ESTABLISHMENT, ORGANIZATION AND ADMINISTRATION OF SERVICE

#### Determination and distribution of establishment

- 3.**
  - (1) The Council must determine the fixed establishment of the Service.
  - (2) The Head under the directives of the Chief Executive Officer, -
    - (a) must make recommendations to the Council as to the numbers, grading, regrading, conversion or abolition of posts constituting part of the fixed establishment of the Service, including any reduction in or reorganization or readjustment of the Service.
    - (b) in writing, may designate or second any member on the fixed establishment of the Council to render such administrative, technical and support services to the Service.
  - (3) Any re-organization contemplated in subregulation (2)(a), which involves expenditure must be approved by the Council, and may not be carried out unless prior approval for such expenditure has been obtained.

#### Organizational composition and rank structure of Service

- 4.**
  - (1) Subject to regulation 3(2), the Service must be divided into the following units -
    - (a) Crime Prevention Unit;
    - (b) Traffic Management Unit; and
    - (c) Administration and Technical Unit.
  - (2) The Council, subject to regulation 3, may subdivide a unit of the Service into different branches and assign such designation to such branches and the personnel attached thereto as it thinks fit.
  - (3) The ranks in the Service in order of precedence are set out in Annexure “A” to these regulations.
  - (4) The Chief Executive Officer, if he or she thinks it expedient from time to time, may temporarily confer a higher rank on any member, and such member holds such temporary higher rank during the pleasure of the Chief Executive Officer.

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

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

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

### **Powers of the Chief Executive Officer**

**5.** (1) The powers of the Chief Executive Officer are as conferred by the Act, the Local Authorities Act, the Road Traffic and Transport Act, 1999 (Act No. 22 of 1999) and the Regulations.

### **Appointment of Head, Deputy Head and Senior Superintendent**

**6.** (1) The Council must appoint, in accordance with the provisions of Regulation 5(1) of the Municipal Police Service Regulations, a fit and proper person as City Police Chief to be the Head of the Service.

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

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

### **Term of office of Head**

**7.** (1) Subject to these regulations, the Head's term of office is a period of five years, or such lesser period as may be agreed between the Head and the Council at the time of his or her appointment.

(2) The Head may be re-appointed at the end of his or her term of office referred to in subregulation (1).

(3) The Council must notify the Head in writing at least three calendar months before the expiry of the period of his or her term of office, whether it intends to re-appoint the Head for another term or not, and if so, for what period.

(4) If the Head receives a notice referred to in subregulation (3), he or she must notify the Council in writing within 30 days from the date of receipt of such notice of his or her acceptance or refusal of re-appointment for another term of office.

(5) If the Head notifies the Council in accordance with subregulation (4) of his or her acceptance of re-appointment for another term of office, his or her term of office is extended accordingly.

### **Loss of confidence in Head or Deputy Head or Senior Superintendent**

**8.** (1) If the Council has lost confidence in the Head, the Chief Executive Officer after consultation with the Inspector – General and the Chairperson of the Council, must establish a board of inquiry consisting of a person having knowledge and experience of labour law, as chairperson, and two other suitable persons, who are not in the employment of the Council, to -

- (a) inquire into the circumstances that led to the loss of confidence, which loss of confidences includes, but is not limited to -
  - (i) indisposition, ill-health or injury redundancy, interests of the Service, appointment or election to a public office abolition of post, the reduction in the numerical strength, the re-organization or re-adjustment of the Service or promotion of efficiency or effectiveness of the Service;
  - (ii) subject to regulation 17, on account of a sentence imposed on the member;
  - (iii) unfitness for his or her duties, or incapacity to carry out his or her duties efficiently; or
  - (iv) misconduct;
- (b) compile a report; and
- (c) make recommendations to the Council.

(2) The Chief Executive Officer may designate any person, including a legal practitioner, to lead evidence, in general or in a specific case, at an inquiry contemplated in subregulation (1).

(3) Before the appointment of the board referred to in subregulation (1), the Chief Executive Officer after consultation with the Inspector-General and the Chairperson of the Council, may suspend the Head from office pending the inquiry referred to in that subregulation, and may lift the suspension at any time.

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

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

(6) If a board of inquiry is established under subregulation (1), the Head must be notified thereof in writing and regarding the date and place of inquiry, and at the inquiry the Head may -

- (a) be assisted or represented by any person or legal practitioner;
- (b) make written representations to the board of inquiry;
- (c) be present at the inquiry;
- (d) give evidence at the inquiry;
- (e) cross-examine witnesses not called by him or her;
- (f) be heard in person or through a representative;
- (g) call witnesses; and
- (h) have access to documents produced at the inquiry.

(7) (a) The board of inquiry must conduct the inquiry in such a manner as the chairperson of the board consider most suitable to the clarification of the issues before the board and, generally, to the just handling of the proceedings, and the chairperson, so far as is it appears appropriate, must seek to avoid formality in the proceedings.

- (b) The majority of the members of the board of inquiry forms the quorum.
- (c) The decision of the majority of the members of the board constitutes the decision of the board, but in the event of an equality of votes the chairperson has a casting vote in addition to his or her deliberative vote.

(8) After the conclusion of the inquiry the board of inquiry must submit its report to the Council, and may recommend that -

- (a) the Head, if he or she is suspended, be reinstated and that no action be taken in the matter;
- (b) the Head's salary or rank or both his or her salary and rank be reduced;
- (c) the Head be discharged and that the Head's contract of employment be terminated or that the Head be asked to resign from his or her office; or
- (d) any other appropriate steps (this includes a reprimand, censure, fine or the postponement of any decision by the Council for a period not exceeding 12 calendar months) be taken.

(9) The Council on receipt of any recommendation referred to in subregulation (8) may alter such recommendation, as it thinks appropriate in the circumstances, or accept and implement any such recommendation.

(10) If the Council postpones its decision for any period contemplated in regulation (8)(d), the Council must at the end of the period request the same board of inquiry or a similar board of inquiry established for that purpose to compile a new report and make new recommendations after having considered the conduct of the Head during such period.

(11) If the Council following a recommendation of the board of inquiry under subregulation (8) or the Council terminates the Head's contract of employment, the Head's term of office is deemed to have expired on the date of termination of his or her services.

(12) The word "Head" in this regulation and for purposes of this regulation and regulations 15, 16 and 21 includes a Deputy Head or Deputy Heads or Senior Superintendent.

## CHAPTER 4

### APPOINTMENT AND TERMINATION OF SERVICE

#### Appointment and promotion of member

9. (1) If the Council, on the recommendation of the Head under the directives of the Chief Executive Officer, needs to fill a post on the fixed establishment of the Service, whether by promotion or appointment or transfer, the Council must have regard to the qualifications, relative merit, efficiency and suitability of the person being considered for appointment or promotion.

- (2) A person who wishes to be appointed as a member in the Service must -
  - (a) apply on a form determined by the Council, and confirmed under oath or by way of solemn affirmation on that form that the information furnished by him or her is accurate and correct;
  - (b) allow his or her fingerprints to be taken;
  - (c) furnish proof that he or she has not been convicted of a criminal offence of which dishonesty is an element and of which the sentence is a sentence without the option of a fine;

- (d) submit himself or herself to a medical examination;
- (e) furnish proof of his or her age;
- (f) furnish proof of his or her educational qualifications; and
- (g) sit for an examination or undergo such educational or aptitude tests or physical, health or mental tests as the Council, after consultation with the Inspector-General, may determine.

(3) Subject to this regulation, the Council's Affirmative Action Policy and the Windhoek City Police Service Recruitment Guidelines, a person may not be appointed as a member, unless -

- (a) the person has completed the probation period required by these regulations;
- (b) the Head has issued a certificate as determined by the Council confirming that the person has successfully completed the probation period and that the person is in all respects suitable to be appointed permanently as a member;
- (c) is a Namibian citizen;
- (d) is not under 18 years of age and not over 50 years of age;
- (e) is free from any mental or physical defect, disease or infirmity which, in the reasonable opinion of the Council, will or may interfere with the proper execution of his or her duties or necessitates his or her retirement before reaching 60 years of age;
- (f) has not been convicted of a criminal offence of which dishonesty is an element and of which the sentence is a sentence without the option of a fine;
- (g) has passed at least the grade 12 examination or an examination equivalent to that grade or higher or the training determined under these regulations;
- (h) has not been dismissed from any employment as result of misconduct of which dishonesty and poor human relations are elements;
- (i) is prepared to take the declaration of accession to office contained in Annexure "B".

(4) The Council may waive the requirement referred to in subregulation (3)(e) with respect to physical defect in exceptional circumstances.

(5) Despite subregulation (3)(c) the Council, with the approval of the Minister responsible for Home Affairs, may authorize the appointment of a person with specialized experience or knowledge, who is not a Namibian Citizen in the Service in a temporary capacity for such positions as identified and approved by the Council, but the period for which the person is appointed may not exceed three years.

(6) Subject to the provisions of the Labour Act, 1992 (Act No. 6 of 1992) the Council may appoint a staff member of -

- (a) the City of Windhoek: Security Service Division; or
- (b) the City of Windhoek: Traffic Management Service Division,

other than the persons then holding the post of Manager: Security Services and that of Chief Traffic Officer or Senior Superintendent or a person "designate" in such positions

in the employment of Council, as members of the Windhoek City Police Service under this regulation, and such a member must take the declaration referred to in subregulation (3)(i) on a date to be determined by the Chief Executive Officer, or as soon as practicable after that date.

### **Prohibition of certain actions**

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

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

### **Advertisement of vacancies**

**11.** Subject to a directive of the Minister responsible for the affairs of local authorities or a Council's resolution, the Council must advertise by way of a notice at the Council offices and in a newspaper circulating in Namibia every vacancy for a permanent post on the fixed establishment of the Service: Provided that this shall not apply to the position of the Head the Deputy Heads or Senior Superintendent.

### **Certificate of appointment**

**12.** The certificate of appointment referred to in regulation 9 of the Regulations must be in the form of Annexure "C" to these regulations.

### **Promotion**

**13.** (1) The Head, before he or she recommends the promotion of any member to the Council, must satisfy himself or herself that the member is in all respects fit to hold the higher rank.

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

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

### **Resignation of member**

**14.** (1) A member may tender the resignation of his or her appointment with the Head by notice in writing.

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

### **Retirement**

**15.** (1) Subject to subregulation (4), the Pension Funds Act, 1956 (Act No. 24 of 1956) and the Income Tax Act, 1981 (Act No. 24 of 1981), a member must retire on the date he or she attains the age of 60 years.

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

(3) The Head, Deputy Heads or Senior Superintendent may retire from the Service at the expiry of his or her term of office before he or she attains 55 years of age and, if he or she so retires -

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

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

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

### **Discharge of members**

**16.** (1) The Council may under regulation 8 and the Chief Executive Officer may under regulations 18 or 19 discharge a member from the Service -

- (a) on account of indisposition, ill-health or injury redundancy, interests of the Service, appointment or election to a public office abolition of post, the reduction in the numerical strength, the re-organization or re-adjustment of the Service; or promotion of efficiency or effectiveness of the Service;
- (b) subject to regulation 17, on account of a sentence imposed on the member;
- (c) on account of unfitness for his or her duties, or incapacity to carry out his or her duties efficiently;
- (d) on account of misconduct.

(2) The Council, in respect of the Head and the Chief Executive Officer in respect of a member -

- (a) subject to paragraph (b) hereof and subject to regulations 8, 18 and 19, may discharge:
  - (i) the Head who absents himself or herself from his or her duties without the permission of the Chief Executive Officer; or
  - (ii) a member, who absents himself or herself from his or her duties without the permission of the Head;
 at any time after such absence has continued for a period of seven consecutive days or longer;
- (b) where a Head or a member is not discharged under paragraph (a) and such absence continues for a period of 30 consecutive days or more, must discharge the Head or the member from the Service on account of misconduct with effect from the date following the member's last date of attendance at his or her last place of duty.

### **Discharge on account of sentence imposed**

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

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

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

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

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

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

- (a) reinstate such person as a member with effect from the date upon which he or she is deemed to have been discharged; or
  - (b) cause an inquiry to be instituted in accordance with regulation 18 into the suitability of reinstating such person as a member.
- (5) This regulation may not -
- (a) be construed as precluding any administrative action, investigation or inquiry in terms of these regulations with respect to the member concerned; and
  - (b) preclude the taking of any lawful decision or action in consequence of any investigation or inquiry.

## Inquiries

**18.** (1) The Chief Executive Officer may designate three members or staff members, one representing the Service, one with expertise in Industrial Relations and a member of the Council's Legal Division, to be known as a board of inquiry who, in general or in a specific case, may inquire into -

- (a) the fitness of a member to remain in the Service on account of indisposition, ill-health, diseases or injury;
- (b) the fitness or capacity to perform his or her duties or to carry them out efficiently;
- (c) the fitness of a member to remain in the Service if the member's continued employment constitutes a risk for the State, any person residing in the City of Windhoek or any property situated within the City of Windhoek;
- (d) an injury alleged to have been sustained by a member in an incident arising out of or in the course of his or her duty or a disease or indisposition alleged to have been contracted in the course of his or her duty or any subsequent incapacitation alleged to be due to the same injury, disease or indisposition; or

- (e) the death of a member alleged to have been caused as a result of circumstances referred to in paragraph (d).

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

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

- (a) to be present at the inquiry and be heard;
- (b) to be assisted or represented at the inquiry by any other person, including a medical practitioner or legal practitioner;
- (c) to give evidence;
- (d) to call witnesses;
- (e) to cross-examine any person called as a witness in support of any allegation; and
- (f) to have access to documents produced in evidence.

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

- (a) compile a report on its findings and recommend to the Chief Executive Officer one of the following -
  - (i) no action may be taken against the member;
  - (ii) the member be discharged from the Service; or
  - (iii) any other appropriate steps be taken against the member, including referral to a disciplinary inquiry in terms of regulation 19.
- (b) in writing inform the member who is the subject of the inquiry of its findings and recommendations.

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

- (a) accept and implement any recommendation; or
- (b) change any recommendation as he or she thinks reasonable and fair under the circumstances.

### **Disciplinary inquiries**

**19.** (1) If a member commits an act of misconduct, the Head or another member designated for that purpose by the Head, within a reasonable time not exceeding six calendar months from the date the Head becomes aware of the act of misconduct, may charge the member in writing with misconduct, and the charge must -

- (a) as near as possible, be in the form of Form A contained in Annexure "D" and;
- (b) contain a direction calling upon the member charged to furnish the Head within 14 days of receipt of the charge;

- (i) a written admission or denial of the alleged misconduct; and
- (ii) a written explanation regarding the admission or denial of the misconduct with which the member is charged, if the member so wish.

(2) If the member charged with misconduct admits that he or she is guilty of misconduct, and the person charging the member accepts the admission, the member is deemed to be guilty of misconduct as charged, and the Head must recommend to the Chief Executive Officer any penalty referred to in subregulation (7).

(3) If the member charged with misconduct denies the charge of misconduct or fails to comply with the direction contemplated in subregulation (1)(b), the Head must appoint -

- (a) a board of inquiry consisting of three members or staff members, one representing the Service, one with expertise in Industrial Relations and a member of the Council's Legal Division, to inquire into the charge of misconduct of the member; and
- (b) a person to lead evidence in support of the charge.

(4) At an inquiry in terms of subregulation (3) the member charged has the rights referred to in regulation 18(3).

(5) At the conclusion of the inquiry in terms of subregulation (3) the board of inquiry must in writing inform the member charged with misconduct of its findings and recommendations.

(6) If the member charged with misconduct is found guilty, the board of inquiry must grant -

- (a) that member an opportunity to place before it mitigating factors; and
- (b) the person leading evidence an opportunity to place before it any aggravating factors.

(7) After hearing the mitigating factors or aggravating factors, the board of inquiry must compile a report on its findings, and recommend to the Chief Executive Officer one of the followings, that the member -

- (a) be cautioned or reprimanded and indicate the period for which the caution or reprimand will be valid;
- (b) be reduced in rank or remuneration or both rank and remuneration to the extent recommended;
- (c) be ordered to pay a fine not exceeding N\$2000;
- (d) be ordered to repay the whole or part of any loss proven to have been suffered by the Council as the result of the misconduct;
- (e) be discharged from the Service;
- (f) be called upon to resign from the Service on a date to be fixed by the Chief Executive Officer.

(8) After considering the report and any recommendation referred to in subregulation (7), the Chief Executive Officer may -

- (a) accept and implement such recommendation; or

- (b) alter a finding or a recommended penalty as he or she thinks fair and just in the circumstances;
- (c) send the matter back to the board of inquiry to hold a further inquiry and to report its findings and make recommendations in terms of that subregulation.

### **Procedures of board of inquiry**

**20.** (1) A board of inquiry appointed under regulation 8, 18 or 19, must determine its own procedures, and the chairperson must -

- (a) make sure that the inquiry is conducted in such a manner as he or she considers most suitable to the clarification of the issues before the board and, generally, to the just handling of the proceedings; and
- (b) so far as possible, seek to avoid formality in the proceedings.

(2) If the board of inquiry consists of more than one member, a simple majority of the members of the board forms the quorum.

(3) The decision of the majority of the members of the board of inquiry constitutes the decision of the board.

### **Appeals**

**21.** (1) A member who is dissatisfied with a decision of the Chief Executive Officer in terms of regulations 18 or 19 or who is discharged in terms of regulation 16(2)(b) or 17(1) may in writing notify the Chief Executive, of his or her intention to appeal to the Council against such decision or discharge not later than seven working days from the date he or she received the notice of such decision or discharge, or such other period as the Chief Executive Officer may allow.

- (2) The notice of appeal to the Council referred to in subregulation (1) must -
  - (a) as near as possible be in the form of Form B contained in Annexure "E";
  - (b) be delivered to the Chief Executive; and
  - (c) set out the grounds of appeal.

(3) The Chief Executive Officer within 30 days of receipt of the notice of appeal, must submit to the Council the notice of appeal, the report and the recommendations of the board of inquiry referred to in regulation 18 or 19 and reasons for any alteration made by the Chief Executive Officer to any such recommendation, if any.

(4) The noting or execution of an appeal under this regulation does not suspend the decision of the Chief Executive Officer or the discharge of the member appealed against.

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

- (a) allow the appeal in whole or in part;
- (b) replace a sentence with the sentence it considers fair and just; or
- (c) dismiss the appeal.

**Powers of board of inquiry**

**22.** (1) For the purposes of an inquiry, the chairperson of a board of inquiry, may -

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

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

(3) The subpoena must as near as possible be in the form of Form "C" contained in Annexure "F" to these regulations.

(4) A witness at any inquiry in terms of these regulations who, having been duly sworn or having made a solemn affirmation, gives a false answer to any question put to him or her or makes a false statement knowing such answer or statement to be false, commits an offence and is liable to the penalty that may be imposed for perjury.

**Suspension of members**

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

- (a) pending his or her trial for a criminal offence; or
- (b) pending an inquiry as contemplated in regulation 17(4)(b) or 18(1)(c) or 19;
- (c) after his or her conviction of a criminal offence; or
- (d) during any period of his or her arrest and detention.

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

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

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

## CHAPTER 5

### TERMS AND CONDITIONS OF SERVICE

#### **Applicability of Council's personnel rules and conditions of service**

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

(2) Remuneration and other conditions of service and benefits of any person referred to in regulation 9(6) may not be less than what it was before he or she became a member.

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

(4) The salary or salary scale, benefits or allowance or other conditions and terms of service which are applicable to a member may not be reduced or altered without the member's consent, except in accordance with the provisions of any law or following an inquiry under regulation 8, an inquiry under regulation 18 or a disciplinary inquiry under regulation 19.

(5) If a member has received an overpayment on his or her remuneration or any other payment due to the member, as a result of the negligence, error or whatever reason committed by a staff member or another member, the member must repay the Council such overpayment on conditions and terms to be agreed upon.

(6) (a) No deduction of any repayment in terms of subregulation (5) may be made without the member's authorisation, and a total deduction may not exceed one-third of the member's monthly basic salary, and no interest may be charged.

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

#### **Probation period**

**25.** (1) (a) Every person who has been appointed as a member, other than a member appointed under regulation 9(6), must be appointed on probation and the period of probation must be as set out in paragraph (b).

(b) Any person who has been appointed as member under regulation 9, before his or her appointment on the fixed establishment is confirmed, must serve a 12 months probation period, and if after the first 12 months probation the member's appointment is not confirmed, the probation period may be extended for a further six months period and thereafter no further extension may be allowed.

(2) After completion of any probation period by a member, the Head must issue a certificate in which he or she certifies that the member is suitable or not suitable to be appointed permanently on the fixed establishment.

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

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

### **Working days and hours**

**26.** (1) Subject to subregulation (2), a member must perform his or her function on any day of the week.

(2) Subject to the Labour Act, 1992 (Act No. 6 of 1992), the Council must determine the ordinary working hours of the members, and the members must comply with such working hours, but the normal working hours so determined may not exceed 60 hours per week or 10 hours per day or 10 hours per shift.

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

(4) Subregulations (2) and (3) do not apply in respect of any exemptions granted under the Labour Act, 1992.

### **Overtime**

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

(2) Subject to subregulation (4), the Council must pay to a member who works overtime an amount calculated at a rate as follows -

- (a) in the case of any day other than a Sunday or a public holiday,  $1.5 \times a$ ;
- (b) in the case of a Sunday or a public holiday,  $2 \times a$ .

(3) For the purposes of calculating of overtime in terms of subregulation (2)(a) and (b), letter "a" represents a member's hourly remuneration, or if allowed by an exemption given under the Labour Act, 1992, the amount authorised under the exemption.

- (4) Despite subregulation (2), the Council -

- (a) may not pay overtime to a member if the member performs any of the following duties -
  - (i) any escort duties;
  - (ii) any point duties;
  - (iii) observation and surveillance duties;
  - (iv) office administration and meetings; and
  - (v) any duties determined by the Head or Deputy Head in writing;
- (b) must pay to a member referred to in paragraph (a) a service allowance or give the member time off as determined by the Head or Deputy Head.

### **Standby duty**

**28.** (1) The Council may require a member who is off duty to be available to perform any duty after that member's ordinary working hours in a case of an emergency

or when the Service requires his or her service, and a member who is required to be on standby-duty must be available for standby-duty.

(2) A member who is on stand-by duty may not leave the area of jurisdiction without the written permission of his or her immediate supervisor.

(3) The Council, in respect of a member who has to be available for standby-duty after ordinary working hours, in addition to any stand-by allowance that may be paid to him or her to be at all times on stand-by, must remunerate him or her in respect of the period he or she actually worked overtime as contemplated in regulation 27.

### **Application for vacation or special leave**

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

(2) An application for leave referred to in subregulation (1) must be approved by the Head or the person to whom the Head has delegated that power.

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

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

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

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

(7) If the Council accidentally grants to a member more days of vacation leave than the member is entitled to, the Council may deduct the number of excess vacation leave days granted from the vacation leave days which stand to the credit of the member or which may in future accrue to that member.

### **Vacation leave**

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

(2) Despite subregulation (1), the Council may not grant to a member the leave referred to in that subregulation to run concurrently with any period of sick leave granted in terms of regulation 33, or with a period of notice of termination of contract of employment.

(3) The number of vacation leave days are -

(a) Group A:

32 working days per annum in respect of a member who holds the post of Head or Deputy Head or Senior Superintendent; and

(b) Group B:

38,40 working days per annum in respect of all other members.

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

(5) Subject to regulation 31, the Council may not require or permit a member to perform any work as member during the member's vacation leave, except in cases of emergency.

#### **Cancellation, interruption or postponement of vacation leave**

**31.** (1) Despite any provision of these regulations, the Chief Executive Officer upon recommendation of the Head, or in consultation with the Chairperson of Council, may at any time cancel, postpone or interrupt the leave granted to a member under regulation 30(1), if the Council thinks it necessary in the interests of the Service or in the public interest to do so.

(2) If a member's vacation leave granted under regulation 30(1) is cancelled, postponed or interrupted under subregulation (1), the Council must -

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

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

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

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

#### **Compulsory vacation leave**

**32.** If a member has more than 130 working days vacation leave to his or her credit, that member is required to take at least 30 working days vacation leave during the period to be determined by the Council.

#### **Sick leave**

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

(2) A member who is granted sick leave in terms of these regulations may not leave the Council's area of jurisdiction, except with the permission of the Chief Executive Officer upon recommendation of the Head or where the medical practitioner recommending the sick leave stipulates otherwise.

(3) Sick leave accrues to a member on the first day of the sick leave cycle and as from that day the full complement for the sick leave cycle concerned may be granted to the member.

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

(5) Subject to subregulation (6), a sick leave which is provided for any particular sick leave cycle but is not used during that cycle lapses at the end of that cycle and may not be carried forward to the next sick leave cycle.

(6) Despite subregulation (5), a member must be credited with the following sick leave days (accumulated sick leave) at the end of a sick leave cycle which must be carried forward to the next sick leave cycle -

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

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

- (a) the nature of the incapacity is clearly described;
- (b) it is declared that such member is unable to perform his or her duties; and
- (c) the period necessary for his or her recovery is also indicated.

(8) The Chief Executive Officer upon recommendation of the Head may require the submission of a medical certificate in respect of a period of less than two days.

(9) Despite subregulations (4) and (10), the Council, if it is satisfied that the member's absence was in good faith due to incapacity and that good reasons exist why a medical certificate was not submitted, must exempt such member from the submission of a medical certificate in respect of a continuous period of sick leave of not more than 14 consecutive days.

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

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

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

(12) If a member to whom vacation leave is granted under regulation 30(1) becomes incapacitated after his or her vacation leave has begun, that portion of his or her vacation leave during which he or she is incapacitated, may be converted into sick leave, if -

- (a) the member submits a medical certificate in which a medical practitioner certifies that the applicant had to stay in bed during the period for which sick leave is applied; and
- (b) the necessary sick leave credit is available.

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

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

(15) In cases where the Pension Fund or where the Pension Fund's Regulations allow it, the Council's medical practitioner declares a member medically unfit, that member's service must be terminated by the Council on the date on which his or her medical unfitness has been accepted by the Pension Fund or the date determined by the medical practitioner.

(16) For the purposes of this regulation -

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

(17) Despite the definition of "incapacity" in subregulation (16), the Council may regard alcoholism or drug addiction as incapacity and may in terms of this regulation grant to a member who is an alcoholic or drug addict, sick leave with full remuneration, but -

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

### Bonus leave

34. (1) The Council must grant to a member who is in the service of the Council at the date these regulations come into operation and who has completed a minimum of five years continuous service a bonus leave, and thereafter at intervals of five years service period, but only for a maximum of two five years service periods.

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

- (a) for the first five years of service -
  - (i) 61,64 working days for a member who holds the position of Head or Deputy Head or Senior Superintendent; and
  - (ii) 73,97 working days for any other member.
- (b) for each completed year or portion thereof of continuous service after the period of the first five years -
  - (i) 12,33 working days for a member who holds the position of Head or Deputy Head or Senior Superintendent; and
  - (ii) 14,79 working days for any other member.

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

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

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

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

(7) Despite subregulation (6)(a), if the Council terminates a member's contract of service on account of redundancy or interest of the Service as contemplated in regulation 16 (1)(a), the Council must pay a pro rata share of the cash value of the bonus leave that would have accrued to the member had the Council not terminated his or her contract of service.

- (8) For the purpose of this regulation -
  - (a) when calculating the period of five continuous years of service, vacation leave without remuneration or special leave without remuneration, must not be taken into consideration;
  - (b) any cash value of bonus leave must be calculated according to the following formula -
    - (i)  $\frac{a \times b}{250}$  where a member works five days per week; or
    - (ii)  $\frac{a \times b}{300}$  where a member works six days per week.

- (9) In the formula referred to in subregulation (8)(b) -
- (a) 'a' represents the number of bonus leave days to the credit of a member; and
  - (b) 'b' represents the annual basic salary received by a member on the day his or her contract of employment is terminated.

### **Special leave**

**35.** (1) The Chief Executive Officer must grant to a member special leave with full remuneration , if the member -

- (a) is selected by a sports body registered with the Namibia Sports Commission, or a sports body for the uniformed services to -
  - (i) take part in a sports tour outside Namibia whether as competitor, coach or manager or any other official;
  - (ii) represent Namibia, as a competitor, coach or manager or any other official at an international sporting event in Namibia;
  - (iii) accompany a foreign national team visiting Namibia, as a representative of a Namibian sports body organising the tour;
- (b) is absent from duty as a result of quarantine or isolation on medical instructions, and a medical certificate from a medical practitioner accompanies the application for special leave;
- (c) is summoned as witness in proceedings before a court of law or to produce documents on behalf of the Council or in connection with the member's official duty;
- (d) has to study and sit for an examination as approved by the Council in accordance with the Council's Training and Study Aid Policy, but such special leave -
  - (i) may not be taken earlier than 60 days before the date on which the examination in respect of which leave is granted is to be held;
  - (ii) may be granted only once per approved course;
- (e) is appointed as a board member of a company in which the Government holds the majority of shares or a professional body established by law for board meetings and conferences; or
- (f) is attending a congress, seminar, or conference or workshop on behalf of the Council.

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

- (3) The Council, on application, may grant to a member special leave -
- (a) without basic salary if the member has no vacation leave days to his or her credit, and the Council is satisfied that the circumstances justify the granting of leave of absence; or
  - (b) on full remuneration or without basic salary if the Council so approves.

(4) Subject to regulation 33(16), the Council may grant to a member special leave on full remuneration if the member is unable to perform his or her duties on account of an accident -

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

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

(5) Every member who applies for special leave, in support of his or her application, must submit a certificate stating the reasons for the application of special leave or such other proof as the Council may require.

### **Maternity leave**

**36.** (1) The Chief Executive Officer must grant to a female member who has completed at least 12 months continuous service in the employment of the Council, with a view to her confinement, at least four weeks maternity leave without basic salary before the expected date of her confinement as certified in writing by a medical practitioner to be such expected date, and ending at least eight weeks after the expected date of such confinement so certified.

(2) A female member who has been granted maternity leave in terms of subregulation (1), may not be deprived of any right, except the right to basic salary, which is vested in her by virtue of her employment on the date immediately before the date on which her maternity leave commences and such right must continue as if the member's period of employment was not interrupted during the period of maternity leave granted to her.

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

(4) For the purpose of these regulations, the period over which a member is on maternity leave, when calculating the continuous service period of that member, must be taken into consideration.

### **Payment of leave credit at termination of contract of employment**

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

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

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

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

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

(5) The Council only pays out the cash value of vacation leave days contemplated in subregulation (4) to the maximum of 130 days.

#### **Payment of travelling costs**

**38.** (1) The Council may pay a member who has been recruited within Namibia but outside its area of jurisdiction the following moneys after assumption of duty, if the member -

- (a) uses road transport, the transport cost calculated on the basis of the per kilometre tariff as determined from time to time by the Automobile Association; or
- (b) uses rail transport, the transport costs to a maximum amount equal to the price of a first class train ticket for the member and his or her dependants, from the railway station or railway bus halt nearest to the member's former place of residence to the railway station or railway; and
- (c) transports his or her personal effects to the Council's area of jurisdiction, at an amount equal to the cheapest of three quotations quoted by at least three different furniture removal companies.

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

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

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

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

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

### **Subsistence and travel and special allowance**

**39.** (1) The Council must pay to a member, whom it requires or directs to travel on official business or to attend a meeting or conference on behalf of the Council and who is absent from his or her normal place of work for a period of one day or longer, a subsistence and travel and, where applicable, special allowance at a daily rate and in accordance with the recommendations and directions of the Management Committee of the Council.

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

### **Inadequate subsistence and travel allowance**

**40.** (1) If the subsistence, travel or special allowance referred to in regulation 39 is inadequate to cover the expenses which a member incurs over and above his or her normal living expenses when he or she is absent from his or her normal place of work, the Council may refund to the member the difference between the amount payable as subsistence, travel or special allowance in respect of the period of absence and the reasonable expenditure actually incurred by the member.

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

### **Reimbursement for expenses incurred**

**41.** The Council must pay or reimburse a member who is required to travel outside Windhoek on 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, portage, gratuities, landing or shipping fees and other incidental services.

### **Acting allowances**

**42.** (1) If a member is appointed to act in a higher post for a period of not less than 30 days, the Council must pay that member an acting allowance equal to the difference between his or her basic salary and the minimum notch of the basic salary scale pertaining to the post in which he or she is acting.

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

### **Fringe benefits**

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

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

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

- (4) Despite subregulation (3) -
- (a) if a member only works for a portion of the 12 months period after the date determined under that subregulation, his or her annual bonus must be calculated on a pro rata basis of the continuous period worked by the member;
  - (b) if a member's contract of employment is terminated for a reason other than that of misconduct before the date determined in terms of this regulation, the member is entitled to a pro rata payment of the annual bonus;
  - (c) if a member, during any 12 months period, was -
    - (i) on vacation leave without remuneration for a period exceeding 20 consecutive working days; or
    - (ii) on suspension for a period exceeding 20 consecutive working days, the Council, on pro rata, may reduce that member's annual bonus in respect of that 12 months period.

(5) The Council, in accordance with guidelines as may be determined by it, must pay to a member a service allowance.

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

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

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

### **Strikes**

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

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

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

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

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

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

### **Political activities of members**

- 45.** (1) Subject to subregulation (2), a member may not -
- (a) publicly display or express for or associate himself or herself with a political party, organization, movement or body;
  - (b) hold any post or office in a political party, organization, movement or body;
  - (c) publicly wear any insignia or identification mark in respect of any political party, organization, movement or body; or
  - (d) in any manner further or prejudice party-political interests.
- (2) Subregulation (1) may not be construed as prohibiting a member who is not on duty and who is not in uniform from -
- (a) expressing views on any issue which is not directly related to the member's responsibilities as a member as long as the member does not -
    - (i) associate his or her position as a member with the views; or
    - (ii) represent the views as those of the Service;
  - (b) attending a public meeting or attending and participating in a meeting, congress or convention of a political party or other organization involved in political activity;
  - (c) exercising his or her right to vote; or
  - (d) engaging in any other political activity, except -
    - (i) soliciting or receiving funds for or on behalf of a political party or other organization involved in political activity; or
    - (ii) political activity that places or is likely to place the member in a position of conflict of interest.

(3) Despite subregulation (1) and (2), a member has the right to join a political party, organization, movement, or a body that engages in political activities, of his or her choice.

### **Obedience**

- 46.** (1) Subject to subregulation (2), a member must obey any reasonable order or instruction given to him or her by a senior member or a person who is competent to do so, but the member may not obey a patently unlawful order or instruction.
- (2) If it is reasonable in the circumstances, a member may demand that an order or instruction referred to in subregulation (1) be recorded in writing before the member obeys the instructions.
- (3) A member, after having obeyed an order or instructions referred to in subregulation (1), may demand that such an order or instruction is recorded in writing.

**Prohibition to perform private work**

**47.** (1) A member may not -

- (a) perform or engage himself or herself to perform any remunerative work outside his or her employment in the Service; or
- (b) claim as of right additional remuneration in respect of any official duty or work which he or she is required by any competent authority to be performed by him or her during normal working hours in addition to his or her official duties or work.

(2) Despite subregulation (1), the Chief Executive Officer, on written application by a member, and upon recommendation of the Head, may grant permission to the member to perform or engage himself or herself to perform any remunerative work outside the member's employment in the Service, but the Chief Executive Officer may not grant the permission, unless -

- (a) the member discloses the full nature of such work; and
- (b) the performance of or engagement in such work does not give rise to a conflict of interests in the performance of his or her official duties, or is not detrimental to the interest of the Service.

(3) If a member receives any remuneration, allowance or other reward in connection with the performance of his or her work in the Service, other than in accordance with these regulations or in contravention of subregulation (2)(b), such member must pay to the Council an amount equal to the amount of such remuneration, allowance, reward or, if it does not consist of money, the value thereof, as determined by the Chief Executive Officer, and if he or she fails to do so, the Chief Executive Officer may recover it by way of legal proceedings or in such other manner as the Chief Executive Officer may think fit.

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

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

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

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

**CHAPTER 6**  
**ACTS OF MISCONDUCT**

**Acts of misconduct**

- 48.** A member who -
- (a) contravenes any provision of these regulations, the Act, the Regulations, or any other law applicable to such member;
  - (b) sleeps on duty;
  - (c) is grossly discourteous to any person whilst on duty;
  - (d) is negligent or indolent in the discharge of his or her duties;
  - (e) absents himself or herself from duty without leave or valid cause;
  - (f) fails without valid cause to report for duty at a stipulated time at his or her station, place of employment or any other place appointed by his or her senior officer;
  - (g) contrary to any orders or instructions of a senior, goes off duty before being relieved or without having first obtained permission from his or her superior to do so;
  - (h)
    - (i) without proper authority, releases a prisoner or other person in custody, or willfully or negligently allows him or her to escape;
    - (ii) uses unnecessary force or violence against a prisoner or other person in custody, or otherwise ill-treats him or her;
  - (i)
    - (i) assaults another member or staff member, threatens him or her with violence, uses threatening or insulting language towards him or her, resists him or her by word or action or adopts towards him or her a disdainful, recalcitrant or insolent attitude;
    - (ii) falsely imputes improper demeanour or misconduct to a senior;
    - (iii) disobeys, disregards or makes willful default in carrying out any order given to him or her by his or her senior, or by word or conduct is guilty of insubordination;
  - (j) treats a junior member, member or staff member in a tyrannical or oppressive manner;
  - (k) borrows money from or through a member holding a lower rank;
  - (l) fights or otherwise behaves in a riotous or an unseemingly manner;
  - (m) intentionally causes an unnecessary disturbance, gives a false alarm or disseminates false information;
  - (n)
    - (i) conducts himself or herself in a disgraceful, improper or unbecoming manner;
    - (ii) associates with or is in the company of a person who is under investigation with regard to the commission of a criminal offence;

- (o) takes an active part in any activity which is likely to interfere with the impartial discharge of his or her duties or which is likely to give rise to that impression amongst members of the public;
- (p) (i) malingers, feigns or pretends to be ill, infirm, indisposed, injured or suffering from pain;
  - (ii) obtains or attempts to obtain exemption from duty by advancing a false or exaggerated excuse on the ground of illness, infirmity, indisposition, injury or pain;
  - (iii) willfully causes illness, infirmity, indisposition or pain or willfully maims or injures himself or herself or any other member, whether at the request of such member or not, or willfully causes himself or herself to be maimed or injured by any other person with the intention of rendering himself or herself or such other member unfit for duty or the performance of his or her functions;
  - (iv) as a patient in any hospital or nursing institution, willfully fails to obey any regulation or any lawful direction given by a member of the medical or nursing staff attached to such hospital or institution;
- (q) (i) deserts the Service, refuses to serve in or carry out the functions of the Service or incites or persuades any other member to desert, refuse to serve in or to carry out the functions of the Service;
  - (ii) knowingly and willfully receives, cares for, harbours or conceals a member who deserted or, without valid cause, absented himself or herself from duty or, knowing the whereabouts of such member, fails to notify his or her senior immediately or to do everything in his or her power to have him or her arrested;
- (r) (i) conspires with any other person to commit mutiny or to cause a mutiny, illegal strike, riot or revolt;
  - (ii) joins in any mutiny, illegal strike, riot or revolt or incites any person to do so;
  - (iii) while a mutiny, illegal strike, riot or revolt takes place in his or her presence, fails to do everything in his or her power to suppress it;
  - (iv) while knowing or suspecting any other person to be involved in any conspiracy to cause a mutiny, illegal strike, riot or revolt or to have joined in it, fails to report all the facts which he or she knows immediately to his or her senior;
- (s) addresses any anonymous communication to a member of the Council, the Head, any other dignitary or a senior officer in the Service;
- (t) makes a false accusation against any member or, during an investigation, disciplinary proceedings or inquiry makes a false statement or willfully suppresses or conceals material facts;
- (u) withholds or unreasonably delays any complaint against or an adverse communication concerning another member;
- (v) willfully refuses or neglects to discharge any lawful debt;
- (w) (i) without the permission of the Head, discloses, otherwise than in the discharge of his or her official duties, information gained by or conveyed to him or her as a result of his or her employment in the

Service, or uses such information for any purpose other than for the discharge of his or her official duties, whether or not he or she discloses such information;

- (ii) accepts or demands in respect of the carrying out of or the failure to carry out 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 fails to report immediately to his or her officer the offer of any such commission, fee or reward;
- (x) (i) is under the influence of intoxicating liquor or stupefying drugs while he or she is on duty;
  - (ii) uses intoxicating liquor or stupefying drugs on duty;
  - (iii) uses intoxicating liquor excessively or uses stupefying drugs without a prescription from a medical practitioner;
  - (iv) while on duty and in uniform, enters any room or place being used for the manufacture, storage, sale or supply of intoxicating liquor, except in the performance of his or her functions;
  - (v) places himself or herself under an obligation to any dealer in intoxicating liquor or any barman or other person in the employ of any such dealer or barman where such obligation is likely to hamper him or her in the proper discharge of his or her duties;
  - (vi) holds shares or interest in a business or close corporation or an unlisted company, the main object of which is the manufacture or supply of or trading in intoxicating liquor;
- (y) demands, solicits, receives or accepts any discount, commission, gift, fee, reward or other consideration or advantage, whether pecuniary or otherwise (except his or her official remuneration), in respect of the acquisition, purchase, sale or disposal of any supplies, arms, ammunition, accessories, transport, animals and other equipment or any other requisites of whatever nature, required for use in, or being the property of the Service, a canteen, mess or any other institution of the Service;
- (z) wrongfully and unlawfully appropriates, withholds, abuses, makes unauthorized use of or willfully damages or negligently damages or loses any property including prescribed uniform, badges or clothing being part of the dress code of the Service, including -
  - (i) property issued to him or her or to another member at public expense for personal use in the execution of his or her or such other member's functions;
  - (ii) property in possession or under the control of the Council or for which the Council is responsible;
  - (iii) any property belonging to another member, a canteen, mess or any other institution of the Service, a prisoner or other person in custody; or
  - (iv) any exhibit in a criminal case, or property abandoned, lost or unclaimed and found or taken into safekeeping by a member or being in his or her possession;

- (aa) (i) subject to regulation 45(2) while on duty, knowingly and deliberately in public wears, exhibits or uses any badge, emblem, standard, colours, salute, greeting, distinctive gesture or device of any kind which associates him or her with any political party or any movement, organization, body or association having political objects;
- (ii) subject to regulation 45(2) takes an active part in partisan party-political matters or associates himself or herself with the political activities, objects or matters of a party, movement, organization, body or association referred to in sub-regulation (1);
- (iii) in any way actively and publicly promotes the candidature of a candidate for, the National Council, or a Regional Council established under section 2 of the Regional Councils Act, 1992 (Act No. 22 of 1992), or a local authority Council established under section 3 of the Local Authorities Act, or a school board, beyond recording his or her vote or carrying out his or her functions and official duties in connection with an election;
- (ab) (i) establishes a trade union or becomes a member of a trade union;
- (ii) without the written permission of the Head, takes part in or associates with the activities, objects or matters of a trade union;
- (iii) before the permission referred to in subparagraph (ii) has been obtained, while duty, knowingly and deliberately wears, exhibits or uses any badge, emblem, standard, colours, salute, greeting, distinctive gesture or device of any kind which associates him or her with such trade union;
- (ac) attempts to secure intervention from political or outside sources in relation to his or her own or another member's position or conditions of employment or functions in the Service, but this regulation may not be construed as prohibiting a member from approaching the office of the Ombudsman or a court of law;
- (ad) with intent to deceive or prejudice any person, suppresses, conceals, withdraws, defaces, alters, destroys or does away, whether wholly or partly, with any report, return, register, book, record, form, claim, letter or any other document in relation to his or her functions or duties in the Service, or obliterates anything therein or makes, causes or allows to be made or connives at the making of any false, misleading, incomplete or inaccurate statement, record or entry therein;
- (ae) with a view to obtain any privilege or advantage in relation to his or her official position, functions or to causing prejudice or injury to the Council, the Service or any other member of the Service, makes a false or incorrect statement, knowing it to be false or incorrect;
- (af) after having been duly ordered to be present at a specified time and place as the accused, defendant or witness at disciplinary proceedings or a board of inquiry or any other inquiry under these regulations -
- (i) fails without just cause to appear at the time and place specified;
- (ii) if he or she is present, refuses to take an oath or to make an affirmation administered to him or her or refuses or fails to answer all questions which have lawfully been put to him or her; or

- (iii) refuses or fails to produce a document or thing which he or she has lawfully been required to produce;
- (ag) performs, causes or permits to be performed or connives at, any act prejudicial to the administration, discipline or efficiency of the Service; or
- (ah) while on duty, on the grounds of another person's colour, sexual orientation race, nationality or ethnic or national origin, willfully discriminates against such person or treats such person improperly;
- (ai) who in a court of law is convicted of a criminal offence; or
- (aj) damages or loses a fire-arm under his or her control or allows an unauthorised person to handle or gain possession of such fire-arm,

commits an act of misconduct and on conviction is liable to a sanction contemplated in regulation 19(7).

### **Conduct Sheet**

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

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

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

(4) Despite subregulation (2), the Chief Executive Officer may determine that a conviction which has already been deleted be taken into account for certain purposes.

## **CHAPTER 7**

### **LEGAL AID: CRIMINAL AND CIVIL CASES**

#### **Legal aid in criminal cases**

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

- (2) A member referred to in subregulation (1) -
  - (a) as soon as possible after his or her arrest or receipt of summons, through the Head or Deputy Head or Senior Superintendent, must inform the Chief Executive Officer in writing of the arrest and the charge or summons and the date of appearance in court;
  - (b) subject to subregulation (6), remains personally liable for any penalty that the court may impose on him or her as a result of a conviction;
  - (c) if he or she elects to be legally represented by a legal practitioner other than the Council's legal practitioners, his or her legal costs may not be covered by the Council; and

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

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

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

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

(6) If a member is convicted of a criminal offence as referred to in subregulation (1), the Council, after considering the report referred to in subregulation (3), may pay, wholly or in part, any fine imposed on the member as a result of the conviction.

### **Legal aid in civil cases**

**51.** (1) If a member, in the course of his or her duty, commits an act or omits to do an act, and the commission or omission results in a civil claim against the member in his or her official or personal capacity, the Chief Executive Officer, subject to subregulation (2), may arrange for the member's legal representation by the Council's legal practitioners at the Council's cost.

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

(a) may not admit liability, offer or promise any payment, offer or promise indemnity in respect of the commission or omission of the act, except with the written permission of the Council's legal practitioner;

(b) must in writing inform the Head of the commission or omission of the act as soon as possible after the date of the commission or omission of the act, or the date on which the summons is served on him or her; and

(c) must furnish the Chief Executive Officer with all information in respect of the commission or omission of the act as accurately as possible.

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

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

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

**Non-application of regulations 50 and 51**

- 52.** Regulations 50 and 51 do not apply -
- (a) if the commission or omission of an act by a member giving rise to a criminal charge amounts to driving a vehicle under the influence of alcohol or intoxicating drugs and such driving results in an accident or causes other damage; or
  - (b) if the Council institutes criminal proceedings or a civil claim or disciplinary action against a member as a result of a commission or omission of an act referred to in regulation 50(1) or 51(1).

**CHAPTER 8****GENERAL****Limitation of liabilities and legal proceedings**

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

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

**Estimates**

**54.** (1) The Head, in respect of each financial year, must submit operating and capital estimates to the Council that will show, separately, the amounts that will be required -

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

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

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

**Prohibition on certain dealings**

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

**Missing members**

**56.** (1) If a member is missing and the Chief Executive Officer is satisfied that the member's absence arose from the performance of that member's functions in terms of these regulations, such member is, for all purposes, deemed to be still in the

employment of the Service from the day on which such absence commenced until the day on which -

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

(2) Subject to subregulation (4), the salary or wages and allowances accruing to a member during his or her absence contemplated in subregulation (1) must be paid to his or spouse or, if he or she has no spouse, to his or her other dependents, or to any person who, in the opinion of the Chief Executive Officer, is competent to receive and administer such salary or wages and allowances on behalf of the member's spouse or such other dependents.

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

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

#### **Access to Namibian Police facilities**

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

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

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

#### **Reward for extraordinary diligence or devotion**

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

#### **Establishment of decorations and medals for members**

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

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

**Criminal statistics**

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

**Appointment provisions of a member appointed in terms of regulation 9(6) hereof**

**61.** In addition to regulation 24(2), a person who is appointed in terms of regulation 9(6) -

- (a) for the purposes of computing his or her length of service, is deemed to have had an uninterrupted service with the Council under these regulations;
- (b) retains the number of vacation leave days standing to his or her credit at the date these regulations come into operation;
- (c) retains the number of bonus leave days standing to his or her credit at the date these regulations come into operation and retains the anniversary date on which he or she becomes entitled to the bonus leave;
- (d) retains the pension contributions standing to his or her share in the Retirement Fund for Local authorities in Namibia; and
- (e) who holds -
  - (i) the post or rank of Superintendent in the Council's Traffic Division, holds the rank of City Police Superintendent;
  - (ii) the post or rank of Senior Traffic Officer or Senior Security Officer in the Council's Traffic Division and the Council's Security Management Division, respectively, holds the rank of Assistant Superintendent;
  - (iii) the post or rank of Traffic Officer or Security Officer in the Council's Traffic Division and Council's Security Management Division, respectively, holds the rank of City Police Constable;
  - (iv) a post or rank not falling under subparagraph (i) to (iii) will hold an equal post or rank constituting part of the fixed establishment of the Service established under any of the paragraphs of subregulation (1) of regulation 4, respectively.

**ANNEXURE "A"****RANKS IN THE SERVICE  
(Regulation 4 (3))**

The Ranks in the Service are:

(a) OFFICERS

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

(b) NON OFFICERS

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

**ANNEXURE "B"**

**ACCESSION TO OFFICE ON APPOINTMENT  
AND ENROLMENT  
(Regulation 9(3)(i))**

I, ..... solemnly state

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

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

\*I swear/affirm that the contents of this declaration are true.

SO HELP ME GOD

.....  
**SIGNATURE OF WITNESS**

.....  
**SIGNATURE OF DEPONENT**

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

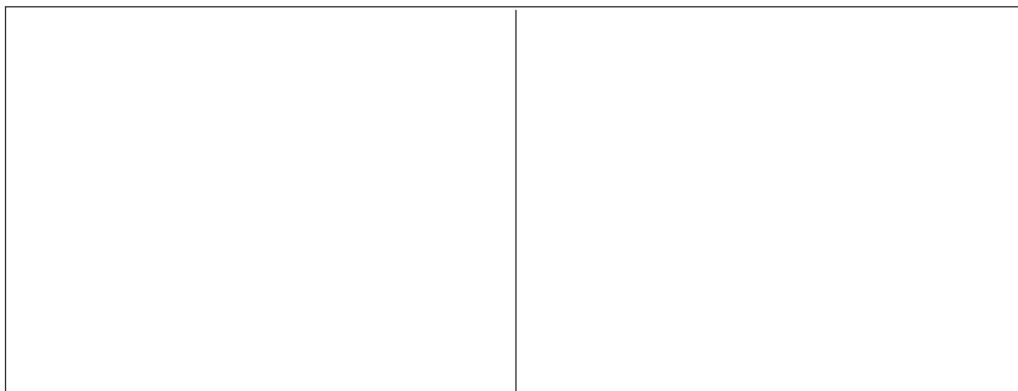
Before me at ..... on this ..... day of ..... 20.....

.....  
**SIGNATURE OF  
COMMISSIONER OF OATHS**

PLEASE PRINT

FULL NAMES: .....  
BUSINESS ADDRESS: .....  
DESIGNATION (RANK) ..... EX OFFICIO

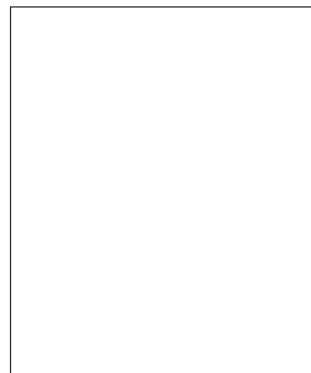
\*Delete the words not applicable

**ANNEXURE "C"****WINDHOEK CITY POLICE SERVICE****Certificate of Appointment  
(Regulation 12)****[logo of service]****[photo of member]**

This is to certify that .....Identity number.....(whose photo appears on this certificate) has on .....been appointed a member of the Windhoek City Police Service in terms of regulation 9 of the Windhoek City Police Service Regulations and that he / she holds the rank of .....with Service number .....

Signed at ..... on this ..... day of ..... 2003.

.....  
**CHIEF EXECUTIVE OFFICER**

**[OFFICE STAMP]**

.....

**SIGNATURE OF MEMBER**

**ANNEXURE "D"****FORM A****MISCONDUCT CHARGE SHEET  
(Regulation 19(1))****THE WINDHOEK CITY POLICE SERVICE**

VS

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

**BE PLEASED TO BE** informed that you are hereby charged with misconduct, under the Windhoek City Police Service Regulations, in that you contravened:1 .....  
2 .....

.....

**Particulars of the Misconduct**.....  
.....  
.....  
.....  
.....  
.....  
.....**You are requested to plead to the above mentioned charges. Upon a plea of guilty, you are requested to furnish the Head with a written explanation (why you are pleading guilty) within seven (7) days from the date you receive this notice.**

- 1 I plead guilty / not guilty to charge 1.
- 2 I plead guilty / not guilty to charge II.

I attach / do not attach a statement hereto:

.....

SIGNATURE

.....

DATE

**BE PLEASED TO BE FURTHER INFORMED** that at the hearing, you:

- have the right to be represented by a representative of your choice, full time Trade Union representative, fellow employee or any other person of your choice;
- the right to present your case;
- the right to provide evidence in support of your case;
- the right to controvert evidence produced against you;
- the right to cross-examine witnesses;
- the right of access to documents produced in evidence or in connection with the alleged misconduct; and
- the right to appeal

**ANNEXURE "E"****FORM "B"**  
(Regulation 21(2))

.....  
**And**

THE WINDHOEK CITY POLICE SERVICE

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**NOTICE OF APPEAL**

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**KINDLY TAKE NOTICE** that I, ..... (*full names and surname of employee*) hereby note an appeal to Council against the conviction, sentence\* or the conviction and sentence by the Chief Executive Officer, during a Disciplinary Inquiry held on ....., or a discharge in terms of regulation 16 or 17, on the following grounds:

**Ad the Merits**

1 The Chief Executive Officer erred in finding that the Council has proved on a balance of probabilities that

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

**Ad the sentence**

2 The Chief Executive Officer failed to take into account or take into account adequately that:

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

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

.....  
SIGNED APPELANT/ REPRESENTATIVE

**ANNEXURE "F"****FORM "C"**  
(Regulation 22(3))**SUBPOEANA**

FROM: THE CITY POLICE CHIEF

TO:.....

You are hereby summoned and required to attend an inquiry before the board of inquiry  
in the matter between THE WINDHOEK CITY POLICE SERVICE  
.....to be held:

VENUE.....;

DATE.....;

TIME.....;

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

.....  
.....  
.....  
.....  
or such other books or documents that are in your possession.

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

.....  
(Name of City Police Chief)

**CITY POLICE CHIEF.**

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