

MSUKALIGWA LOCAL MUNICIPALITY

LEAVE POLICY

2021-2022



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LEAVE POLICY

1. PURPOSE

The purpose of the policy is to leave matters of employees of the Municipality of Msukaligwa (the Municipality)

2. OBJECTIVES OF THE POLICY

To ensure that employees know their entitlement with regard to the allocation of leave, the responsibility to apply for leave in the prescribed manner(s) and for good governance of leave in Msukaligwa. Municipality.

3. SCOPE OF THE POLICY

This leave policy will apply to all Employees related under the South African Local Government Bargaining Council.

Leave for Municipal Manager and Managers reporting directly to the Municipal Manager as contemplated in terms of Section 56 and 57 of Local Government: Municipal Systems Act, 2000 (Act32 of 2000) as amended shall be regulated by Government Gazette No 37245 – Local Government: Municipal Systems Act, 2000 (Act32 of 2000): Local Government: Municipal Systems Act, 2000 (Act of 2000): Local Government: regulations on Appointment and conditions of employment of Senior Managers.

4. Definitions:

“**ANNUAL LEAVE CYCLE**” means the period of twelve (12) month’s employment with the same employer immediately following and employee’s commencement of employment or following the completion of that employee’s existing leave cycle.

“**BEA**” Basic Conditions of Employment Act, 1997 (Act 75 of 1997) as amended from time to time.

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“Calendar Year” starts on 1st January and ends on 31st December annually.

“Employee” Any person, who works for Msukaligwa Municipality and who receives any remuneration and any other person who in any manner assists in carrying on or conducting the business of the employer excluding an independent contractor.

“Employer” Refers to Msukaligwa Municipality.

“Leave” Is considered as time off/ away from the workplace where the employee is not able to avail him/herself to executing duties and tasks as normally done by the employee.

“Leave year” refers to period of continuous service of 12 months and such leave year normally should start on the date of the appointment of the employee.

“Medical Practitioner” Means a medical practitioner, dentist or traditional healer registered in terms of legislation.

“SALGBC” Means the South African Local Government Bargaining Council.

“Special Leave” Means leave in addition to normal Leave.

“The Municipality” refers to Msukaligwa Local Municipality.

“Working Days” means any day on which an employee is normally required to work according to the service requirement applicable to the employee’s post and as agreed to in applicable to the employee’s post and as agreed to in the SALGBC.

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5. LEGISLATIVE FRAMEWORK

The obligation on an Employer to grant leave is regulated by, amongst others:

- Labour Relation Act, 1995 (Act 66 of 1995) as amended from time to time.
- Basic Conditions of Employment Act, 1997 (Act 75 of 1997) as amended time to time.

Chapter Three (3) (Sections 19 – 27) of the Basic Conditions of Employment Act, Act 75 of 1997 (as amended) [Where the BCEA is considered a minimum act, and collective agreements can resolve on matters that are more favourable than the BCEA, but never less favourable than the BCEA.]

- Local Government: Municipal Systems Act 2000 (Act32 of 2000) as amended from time to time.
- National and Divisional Collective Agreements, as amended from time to time, concluded in the South African Local Government Bargaining Council (SALGBC)
- Employment Contracts in terms of Proclamation R. 805 dated 01 August 2006, as amended from time to time, of the Municipal Manager and Directors directly accountable to the Municipal Manager
- Municipality's System of Delegations, as amended from time to time
- Any other legislation that directly or by implication regulates leave.

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6. TYPES OF LEAVE COVERED BY THE LEAVE POLICY:

The Leave Policy will regulate:

- Annual Leave
- Sick Leave
- Family Responsibility Leave
- Maternity, Adoption and Leave
- Special leave for injury on duty cases and occupational diseases
- Sick leave without pay
- Special Leave
- Leave for purposes of time off in lieu of overtime
- Additional leave for Long Service Recognition
- Leave without pay/Unpaid Leave

The Leave Policy does not regulate:

- Time off/leave to attend to Organisational Rights Matters
- Time off/leave to attend to Seminars / Conferences / Meetings
or similar matters.

7. PRINCIPLES

7.1 GRANTING AND CANCELLATION OF LEAVE OF ABSENCE:

7.1.1 Leave of absence shall be subjected to the Municipality's approval in terms of its System of Delegation.

7.1.2 The BCEA (s20) (2) rules that an employer "must grant an employee at least 21 consecutive days' annual leave on full remuneration in respect of each leave cycle." It is therefore a right to each employee to be allocated leave. However, there are more forms of leave than only annual leave, and

14.2.1 The fields of study must be relevant to the Local Government undertaking in accordance with the municipality's policy.

14.2.2 An employee attending a work – related training or training course shall be deemed to be on duty.

14.3 Additional leave for Post Graduate Studies:

14.3.1 Special leave for a dissertation or thesis will be granted with full pay to a maximum of five (5) working days leave per qualification or for research.

14.4 ATTENDING OF CLASSES DURING OFFICE HOURS:

14.4.1 An employee who studies part – time or by means of correspondence in a field applicable to the employer and who, as a result of his/her place of work, will be granted vacation leave and special leave on a 50:50 basis for the time he/she is released from duty, subject to the exigencies of the service.

14.4.2 If he/she does not have leave to his/her credit, unpaid leave will be granted.

14.5 TO ATTEND A COURT OF TRIBUNAL

14.5.1 On receipt of written subpoena, notice of set down or any similar notice an employee who is subpoenaed/called to attend a Court of Law or a Tribunal or any other similar forum as a witness shall be granted paid special leave that day,

14.5.2 In executing the provision of the above named clause subpoenaed employees shall inform their line Managers a day before to leave their work station.

14.5.3 Any employee who is arrested and appears in court as a result of charges laid by his Employer and who is later acquitted shall be granted paid leave for the period of incarceration.

14.5.4 A n employee who is incarcerated but not convicted for a period of twelve (12) months shall be granted unpaid leave in his/her position for said period.

14.6 SPORTS, ARTS AND CULTURE EVENTS

An employee who is selected by recognized amateur or professional sports, art and culture association, which association may qualify for special leave provided that such association be recognized by NOCSA or the Council of Sport of South Africa and the Council for Art and Culture.

14.7 QUARANTINE AND ISOLATION UNDER MEDICAL INSTRUCTIONS

Where a registered Medical Practitioner has placed an employee under quarantine/ in isolation in terms of the Public Health Act, 1977 (Act 63 of 1977) or any Regulations in force there under, such an employee shall be granted paid special leave, provided that the medical certificate has been submitted.

14.8 APPLICATION FOR SPECIAL LEAVE

- 14.8.1 Operational requirements must be taken into consideration.
- 14.8.2 Supporting documents must be provided with the application.
- 14.8.3 Application for special leave, must be approved by the Municipal Manager or his delegate and shall be considered in a bona fide manner; and shall not be unreasonably refused.

15. SPECIAL LEAVE FOR ADHOC INSTANCES:

Special leave with full pay may be granted to an employee when the employee:

- 15.1 After the Council has given permission the employee may become a member of the reserve police, performs police duties in terms of Section 48 of the South African Police Act, 1995 (Act 68 of 199).

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15.2 Partake in a bonafide sport activity at provincial and higher level in which case the special leave will not exceed three (3) working days per event and these three (3) days may include travelling time.

15.3 Special leave on full pay will be granted to an employee who has been arrested or has to appear in court on a criminal charge and is later acquitted or has the charges withdrawn.

15.4 Gives evidence in a court case after a subpoena and/or summons has been served on him/her.

16. LEAVE FOR PURPOSE OF TIME OFF IN LIEU OF OVERTIME

16.1 Leave for purposes of time off in lieu of overtime may be granted where an employee worked overtime without any compensation; provided that such overtime is authorised in terms of the Municipality's System of Delegation.

16.2 Overtime worked as provided for in paragraph 16.1 shall be captured on an overtime schedule, specifying the date, hours of overtime worked and hours taken, which schedule must be signed by the employee and his/her supervisor.

16.3 Application for leave for purposes of time off in lieu of overtime shall be submitted as provided for in paragraph 7.5. Such applications must be accompanied by the schedule referred to in paragraph 16.2.

16.4 Where an employee is allocated special leave as payment for overtime worked, then the special leave should be allocated to the employee after converting the hours to overtime values in line with the Municipal Overtime Policy.

16.5 Leave in lieu of overtime cannot be encashed and shall be forfeited if not taken within the calendar year which the employee became entitled to the leave, it shall be forfeited on the last day of such calendar year.

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17. ADDITIONAL LEAVE FOR LONG SERVICE RECOGNITION

17.1 An employee who was appointed after 1 July 1986 shall qualify for the following additional leave as recognition for long service at the same employer, which shall be only on the date on which the various periods of continuous service have been completed;

After						
10	years	of	service	–	10	working days
15	years	of	service	–	20	working days
20	years	of	service	–	30	working days
25	years	of	service	–	30	working days
30	years	of	service	–	30	working days
35	years	of	service	–	30	working days
40	years	of	service	–	30	working days
45	years	of	service	–	30	working days

17.2 The long service recognition leave may be wholly or partially converted to payment on the date on which the employee qualifies for it or at any stage thereafter subject to budget provisions.

17.3 When an employee terminates services, long services recognition leave balance does not form part of the overhead maximum of 48 days leave that may be paid out as per the Main Agreement.

17.4 Long service recognition will be pro – rated for employees on termination of services

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18. LEAVE WITHOUT PAY/UNPAID LEAVE

Leave without pay as approved by the Municipal Manager or his delegate, which approval shall not be unreasonably withheld, shall be subject to the following conditions:

- 18.1 Leave without pay shall be granted when all available vacation and/or sick leave has been exhausted. Leave without pay shall also be granted if an employee has accumulated leave days available.
- 18.2 For the period of leave without pay the Employer shall continue to make Employer`s Group life insurance scheme, pension and medical aid fund provided that the employee shall be liable for his own contributions to the said funds, as well as payment in terms of a Collective Agreement.
- 18.3 An employee may apply for unpaid leave on the same format that other types of leave are applied for; the reasons for the unpaid leave must be provided on the application.
- 18.4 Unpaid leave more than 20 working days in a leave cycle extends the allocation date for new leave accruals; [Example: Where an employee is appointed on 1st February, but the employee was absent without payment for the period middle April to middle May for a period of 20 working days, then the employees date of allocation will be moved to March annually. The service year in this instance will thus run from beginning February to end February the next year, which may sound like a 13 – month employment period, but it is not as the employee was absent without pay for one month]
- 18.5 Unpaid leave must be captured on an employee`s leave record and must also be informed to the payroll to ensure that the necessary adjustments to salary payment(s) are made.

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19. UNAUTHORISED ABSENCE FROM DUTY

19.1 Unauthorised absence from duty shall, without prejudice to the rights of the employer with regard to disciplinary measures against an employee, be deemed to be special leave without payment, unless the Municipality decides otherwise.

20. RESUMPTION OF DUTY BEFORE LEAVE EXPIRED

20.1 Except with the Municipality's approval in terms of delegated authority, an employee shall not resume duties before the leave granted to him/her has expired.

21. LEAVE OF ABSENCE GRANTED IN EXCESS

21.1 When more paid leave of absence that has been granted to an employee inadvertently but in good faith, and been taken by him/her, the leave granted in excess may be deducted from leave which may accrue to him/her or the value thereof may be claimed from him/her, whichever the employee may prefer.

22. TERMINATION OF PERMANENT SERVICE AND RE-EMPLOYMENT

22.1 If a permanent employee whose service is terminated for any reason whatsoever is re-employed shall for leave purposes be regarded as a new appointment.

23. IMPLEMENTATION OF THE POLICY

This policy will be implemented and effective once approved by Council.

24. COMMUNICATION

This policy will be communicated to all Municipal Employees using the full range of communication methods available to the Municipality.

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25. POLICY REVIEW

This policy will be review annually and revised as necessary

26. PENALTIES

Non-compliance to any of the stipulations contained in this policy will be regarded as misconduct, which will be dealt with in terms of the Disciplinary Code

Authority



**SI MALAZA
ACTING MUNICIPAL MANAGER**

2021.07.26

DATE

