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**MAKANA MUNICIPALITY**

**OVERTIME POLICY AND PROCUDURE**



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| **OVERTIME POLICY** |
| **Policy Number** | **1** |
| **Policy Name** | **Overtime Policy** |
| **Policy Status**  | **Adopted** |
| **Version**  | **No.2** |
| **Date of Approval** | **21 June 2013** |
| **Date of First Implementation** | **01 July 2013** |
| **Date Last Amended** | **01 July 2013** |
| **Date of Next Review** | **30 June 2014** |
| **Purpose** |  |
| **Aims and Objectives**  | **To regulate overtime** |
| **Policy Custodian** |  **Director Corporate Services**  |
| **Related Policies and Legislation** | * **Local Government: Municipal Structures Act, Act No. 117 of 1998**
* **Local Government: Municipal Systems Act, Act No. 32 of 2000;**
* **Labour Relations Act, Act No. 66 of 1995, as amended**
* **Basic Conditions of Employment Act, Act No.95 of 1997 ;**
* **SALGBC’s Consolidated Conditions of Service for the Eastern Cape Division**
 |
| **Approving Authority** | **Council** |
| **Applicability** | **This policy applies to all permanent and contract municipal employees. Excluding Section 56/57employees** |
| **Policy Benchmark and References**  | **SALGABC Conditions of Services** |
| **Stakeholders Consulted**  | **Yes**  |

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**1. PURPOSE**

 The purpose of this policy is to:-

1. advance labour peace and efficient human resources management by fulfilling primary objects of the Basic Conditions of Employment Act and those of the local government legislation as well as to give effect to the South African Local Government Bargaining Council Agreements;

**2. OBJECTIVES**

1. To ensure that clear guidelines are established for all employees of the Makana Municipality for overtime
2. to promote effective, efficient and economic use of resources, by ensuring that overtime worked is linked to Makana Budget as well as IDP objectives
3. to provide a framework within which the municipality will administer overtime in a fair and a transparent manner

**3. LEGAL / STATUTORY FRAMEWORK**

 Local Government Municipal Systems Act, 32 of 2000;

 Employment Equity Act, 108 of 1996;

Basic Conditions of Employment Act, 75 of 1997

South African Local Government Bargaining Council Main Collective

Agreement

**4. DEFINITIONS**

“***Basic Conditions of Employment Act***” means the Basic conditions of Employment Act No. 75 of 1997.

“***Bargaining Council***” means the South African Local Government Bargaining Council and includes the Eastern Cape Division of the Bargaining Council or such division of the Bargaining Council as the municipality may be determined by the Bargaining Council to fall under.

“***Collective agreement***” means a collective agreement as contemplated in the Labour Relations Act, Act No. 66 of 1995.

***“Council”*** means Makana Local Municipality and includes any political structure and / or political office bearer or employee of the municipality lawfully acting in the stead

***“Employee”*** means any person excluding an independent contractor who has been appointed to the service of Makana Local Municipality to render service and who receives or is entitled to receive any remuneration thereof.

***“Essential service”*** means a service, the interruption of which endangers the life, personal safety or health of the whole part of the population.

***“Head of Department”*** means managerial employee in the service of Council who occupies a post on the municipality’s staff establishment which has an overall responsibility for an organizational unit that is referred to as a department or any person appointed to act in his position in the absence of the other.

***“Labour Relations Act”*** means the Labour Relations Act, Act No. 66 of 1995.

***“Municipal Systems Act”*** means the Local Government Municipal Systems Act, Act No 32 of 2000.

***“Municipality”*** means Makana Local Municipality.

***“Overtime”*** means that portion of any period that an employee works for the municipality during a work week or on a working day as the case may be, which exceeds the ordinary hours of work as stipulated by the municipality or agreed by the municipality and its employees from time to time.

***“Public Holiday”*** means every day that is a public holiday in terms of the Public Holiday Act No: 36 of 1994.

***“Salary”*** means any salary package, allowance, bonus and any other money paid or due to an employee as a reward for his / her service, excluding a payment under a housing or motor vehicle scheme or any allowances.

***“Week”*** in relation to an employee means the period of seven days

***“Working day”*** means any calendar day of the week on which a certain employee normally reports on duty

***“Working hours”*** means those hours which an employee is obliged to work

**5. NATURE AND SCOPE**

The policy contained herein supplements the conditions of employment of every employee, the workplace rules and regulations issued from time to time by the municipality and the code of conduct for the members of the municipality.

**6. APPLICATION**

Expect in so far as this policy provide otherwise and except where it is clearly inconsistent with the context or clearly inappropriate, the provisions of this policy apply to and in respect of all employees of the municipality.

**7. OVERTIME WORK**

Section 10 of the Basic Conditions of Employment Act, 1997 stipulates that:

7.1 No employee may be required or permitted to work overtime except in terms of an agreement between such an employee and the municipality;

7.2 No employee may work more than ten hours overtime in a week and 3 hours a day, except when overtime is required to be done without delay owing circumstances for which the municipality could not reasonably have been expected to make provision and which cannot be performed by employees during their ordinary hours of work. This also requires that overtime should not exceed 40 hours per month.

7.3.No overtime may be worked without the expressed prior permission or instruction of the Municipal Manager, the Head of Department need to obtain prior approval from the Municipal Manager;

7.4. The following category of employees will be paid for not more than 60 hours per month of overtime:

7.4.1. Essential Service employees

Deviations from the Policy will be permitted to those employees who performed overtime duties during or in preparation for special events eg Makana Freedom Festival, National Bank Arts Festival. The deviations will only be applicable to employees who qualify for overtime in terms of this policy and who earns below the statutory threshold.

7.5. Overtime work must be restricted to the minimum and must not be seen as a

mechanism of earning more money in accordance with 7.1

**8. OVERTIME PAY**

8.1. Overtime must be approved by the Director prior to such overtime being worked. Payment for overtime shall only be effected upon submission of a proof that permission or instruction was granted that such overtime be worked, unless in emergency situations;

8.2. The Basic Conditions of Employment Act prescribed that overtime pay for an employee shall be equivalent:-

1. one and a half times the employee’s wages / salary hourly rate for every hour worked from Monday to Saturday
2. Two times the employee’s wage / salary hourly rate for every hour worked on Sundays or Public Holidays for an employee who does not ordinarily work on a Sunday or Public Holiday

8.3. In genuine emergencies, staff should endeavor to obtain the required prior authorisation whenever possible. Should this not be possible, the staff member must report such overtime to the Head of Department as soon as possible, the Head of Department must request approval from Municipal Manager in order to obtain necessary authorisation;

8.4. Employees who are prohibited from working overtime by virtue of their seniority as stipulated in the Basic Conditions of Employment Act may not claim payment in lieu of overtime worked, they will be entitled to leave in lieu of overtime worked, also employees who have excessive hours. The manner in which such leave should be taken will be by mutual agreement between the affected employee and the relevant HOD and/ or Director. This refers to employees earning above the stipulated threshold per annum which is reviewable as per directive by the Department of Labour

8.5. Overtime payment must be paid with an employee’s salary in the month after which he/ she performed such overtime.

8.6. Overtime should not exceed 40 hours per month (overtime should not exceed 30% of employee monthly salary).

8.7 An employee who has worked overtime in excess of the stipulated hour will be required to take leave in lieu of overtime pay. Leave in respect of such overtime must be granted within a period of three months.

**9. PAY FOR WORK ON SUNDAYS AND PUBLIC HOLIDAYS**

9.1. An employer must pay an employee who works on a Sunday double the employee’s wage for each hour worked, unless the employee ordinarily works on a Sunday. In which case the employer must pay the employee at one and one half times the employee’s wage for each hour worked.

**10.** **COMPRESSED WORKING WEEK**

Despite the ordinary working hours, as prescribed by the Collective Agreement on Conditions of Service (40 hour week), an employee can agree in writing to work up to 12 hours in a day without receiving overtime pay. Such agreement must be effected in such a way that no employee works more than:

1. 40 ordinary working hours per week
2. 10 hours overtime per week
3. 5 days in any week for a 5-day worker or
4. 6 days in any week for a 6-day worker

**12.** **RESPONSIBILITY**

It is the responsibility of Municipal Manager to:

* Approve overtime for employees
* Control the misuse of overtime and determining alternatives to overtime

It is the responsibility of every Director to encourage/assist employees in prioritizing their work so as to reduce the need for overtime work.

**13. MONITORING**

The Manager responsible for Human Resources must monitor and report on overtime worked by employees in all municipal departments.

Approved as per Resolution Number SC.. …(21/0613).

Municipal Manager

Dr Pravine Naidoo