

**TERMINATION OF SERVICES
POLICY**

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TERMINATION OF SERVICES: OR TAMBO DISTRICT MUNICIPALITY EMPLOYEES

1. INTRODUCTION

This document provides guidelines on the process to be followed, when the services of OR TAMBO DM employees are being terminated as a result of natural attrition, operational or other reasons.

POLICY STATEMENT

When an employee terminates employment at the OR TAMBO DM, proper procedures should be followed to ensure consideration of fairness, understanding and protection of both the employee and the Municipality. Employees covered under a collective bargaining agreement should refer to the agreement for additional information.

2. DEFINITIONS

For the purposes of this policy the following definition applies:

- “Employee”** Any person employed in the OR TAMBO DM in terms of the SALGA conditions of services.
- “Employer”** The word employer is used to cover the OR TAMBO DM as well as designated individuals employed in any managerial capacity within the department.
- “Operational requirements”** Requirements based on the economic, technological, structure or similar needs of the OR TAMBO DM.
- “Unfitness”** Incompetence/incapability/incapacity

“Misconduct” Improper conduct by an employee, contrary to legal and moral acceptability, within the organization.

3. OBJECTIVE

The objective of this document is to provide general guidelines with regard to the termination of service of employees as well as provide conditions with regard to various termination situations.

4. SCOPE OF APPLICATION

This document applies to all employees including those employed in terms of section 56 and 57 of the Local Government: Municipal Systems Act 2000, within the OR TAMBO DM.

5. GOVERNING PRESCRIPTS

Legislation

Municipal Systems Act No. 32 of 2000

The Labour Relations Act, 1996

The Basic Conditions of Employment Act, 1997

SALGBC Main Collective Agreement on Conditions of Service

White Papers

The White Paper on Human Resource Management

Resolutions

The following resolutions resulting from agreements with recognized employees organizations:

Remunerative Allowances and Benefits No. 3/1999, 4 February 1999
Public Service Regulations I/VII/G.2.4
PSCBC (Public Service Bargaining Chamber) Resolution 2, 1999

Transverse policies and directives

The following policies and directives issued by the OR TAMBO DM:

Public Service Regulations, 2001

Code of Good Practice (Schedule 8 of the Labour Relations Act, 1995)

Code of Conduct

Statutory assigning of powers in respect of Employees is assigned to the Line Manager.

6. PROVISIONS

Guiding Principles

The Line Manager, supported by Corporate Services Department, is responsible for ensuring that the termination of service of an employee is procedurally and substantively fair.

Terms and Conditions

Resignation

An employee may resign from service of Council on any basis recognized by law and for that purpose, unless otherwise agreed to with the Line Manager or his/her delegate, shall:

- In case of an employee paid monthly who has been in Council service for more than one (1) year shall give at least one month's written notice of resignation, as provided for in section 37 of the BCEA; or
- In the case of an employee who has been employed for less than four weeks, shall give at least one week's notice of resignation;
- In tendering his/her resignation, an employee must submit his /her letter of resignation to the Line Manager who will forward it to Corporate Services Department.

- Should an employee not serve the regulated time of notice as above, his/her monthly pay shall be withheld.
 - In the case of an illiterate employee, such notice shall be given verbally but will be recorded accordingly in the presence union representative and the line-manager's supervisor.
 - The time-frames reflected above shall be applicable to both the employee and the employer.
 - Payment in lieu of notice shall be effected in all terminations effected by reason of summary dismissals based on misconduct.
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Retirement

Compulsory Retirement

In South Africa there is compulsory retirement age of 60 and 65 for both women and men respectively. Any employee must be retired on the last day of the month in which he reaches his or her retirement age. Once an employee remains in service beyond the retirement age without an express retainer contract, such employment is wholly illegal and terminable without notice. The Amendment Act, 1996, provides for the employee's right to retire on reaching the retirement age or prescribed retirement date provided for in any other law applicable to him/her on that day.

Section 16(7) of the Public Service Act, 1994 however provides that if it is in the public interest to retain an employee in his/her post beyond the age of 65 years, such retention shall be on the employee's consent and approval of the Head of Department or his/her delegate for further periods not exceeding on the aggregate, two years.

In terms of Corporate Services practices and remuneration management, the normal retirement age for all employees will be 60 years. The retirement date will be last working day of the month in which the retirement age is reached. Due regard shall be given to protect the existing rights of employees.

Retirement by Employees with SAMWU National Provident Fund or any other fund

The lump sum paid shall be subject to compliance with the relevant applicable rules of the fund.

Voluntary Retirement

An employee may exercise an option to retire earlier than the compulsory retirement age. This shall be permissible upon attaining the age of 55 years or on any date after that date and/or notching up 20 years of continuous service with OR TAMBO DM. Due regard shall be given to existing pension/provident fund rules that may be amended from time-to-time. An employee who wishes to exercise this option must notify the Line Manager in writing, through his/her manager/supervisor, or his/her intention to exercise this option; three calendar months prior to the date that he/she wishes to retire. Employees should contact the Corporate Services Manager for advice and assistance on the benefits which are payable, before exercising this option.

Discharge of an Employee

An employee may be discharged from the OR TAMBO DM in terms of the following conditions,

- a) on account of continued ill-health
- b) dismissals based on operational requirements in terms of section 189 and 189A;
- c) on account of unfitness for his/her duties or incapacity to carry them out efficiently;
- d) on account of misconduct;
- e) if, in the case of an employee appointed on probation, his/her appointment is not confirmed;

Incapacity

Health

The Head of the Department may on the basis of medical evidence, approve the discharge of an employee as provided in Schedule 8 of the Labor Relations Act of 1995.

To this end, the Line Manager may require an employee to undergo a medical examination by a registered physician.

The employee must complete and sign an application form for permanent disability where after the Line Manager completes a statement by supervisor

formö. These forms, together with the Medical Reports, must then be forwarded to Corporate Services Department for action.

A discharge on account of ill health shall occur with due regard to Item 10 of Schedule 8 to the Labour Relations Act, 1995.

All ill health discharges will only be considered if recommended by the Medical Board.

Poor Work Performance

Any discharge for incapacity to carry out duties efficiently must comply with the provision of the Labor Relations Act No. 66 of 1995 and the applicable collective agreements. The requirement of schedule 8 of the LRA must be complied forthwith and the Corporate Services Management must provide continuous and careful to both the affected employee and the line-manager/head of department. The Head of Department or his/her delegate shall approve such discharges.

10 of Schedule 8 of the Labour Relations, Act, 1995 permit the discharge by non-confirmation of probation of employees due to poor work performance.

Misconduct

An employee may be discharged from the Municipality for misconduct in terms of any ground recognized by law. This termination does not prohibit payment in lieu of notice where summary dismissal is effected as a sanction.

Abscondment

An employee who absents himself/herself from his/her official duties without permission of the line manager, for a period exceeding 5 consecutive days to 15 days, shall be deemed to have discharged him or herself from the Municipality on account of misconduct with effect from the date immediately succeeding his/her last day of attendance at his/her place of duty.

Instructively, reasonable efforts shall be made the employer to ascertain the challenges befalling the employee through directing correspondence and visits to the last communicated address. More importantly, the employee shall have the burden to communicate their absence within the first two (2) hours of the first day absent. Demonstrable efforts shall be made to contact line-manager by all means

reasonable (i.e. Telephone, message through a colleague or a family member or an acquaintance of the affected employee.)

Death

Corporate Services Department should be informed of the employee's death and on receipt of the Notification of Death the standard documentation must be completed.

7. ROLES AND RESPONSIBILITIES

7.1 Roles of the Line Manager is to:

- a) Distribute service termination documentation to employees
 - b) Collect relevant documentation from employees
 - c) Inform Corporate Services Department of termination and forward documentation for processing
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7.2 Role of the Employee is to:

- a) Provide correct information
 - b) Complete documentation as requested.
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7.3 Role of the Human Resources Department is to:

- a) Make all the necessary and relevant information available to employees
 - b) Ensure the correct application of the guidelines on service terminations in the departments
 - c) Follow progress of individual cases up with SAMWU National Provident Fund or any other accredited pension/provident fund on a regular basis.
 - d) Monitor and evaluate service terminations in the Department
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8. MONITORING, EVALUATION AND REPORTING

The line Manager of every Department shall be responsible for monitoring of the personnel whose services are terminated.

The Line Manager will submit a report to the Manager: Corporate Services Management on a quarterly basis on the status relating to terminations.

The Manager: Corporate Services Management is responsible for the monitoring and evaluation of Service Terminations.
