
NOTICE 582 OF 2010**DEPARTMENT OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS****DRAFT REGULATIONS IN TERMS OF SECTION 71A OF THE LOCAL GOVERNMENT:
MUNICIPAL SYSTEMS ACT, 2000 (ACT NO. 32 OF 2000)**

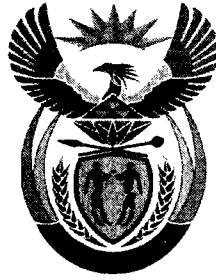
I, Sicelo Shiceka, in my capacity as the Minister for Cooperative Governance and Traditional Affairs hereby publish for public comment the draft regulations as set out in the schedule in accordance with section 71A read with sections 72 and 120 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

Interested persons may submit their comments on the draft regulations in writing to:

The Director General
Attention: Mr Tebogo Motlashuping
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Comments may also be faxed to 012 334 4828 or e-mailed to Regselection2010@cogta.gov.za or TebogoMo@cogta.gov.za

Comments received after 8 July 2010 will not be considered.



DEPARTMENT OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

**DRAFT REGULATIONS ON PARTICIPATION OF MUNICIPAL STAFF MEMBERS AS
CANDIDATES FOR NATIONAL, PROVINCIAL AND MUNICIPAL ELECTIONS**

June 2010

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SCHEDULE

These regulations are issued in terms of Section 71A, read with sections 72 and 120 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000). The regulations seek to establish uniform limits and conditions for the participation in elections of municipal staff members as candidates in National, Provincial and Municipal elections and becoming members of Legislatures.

CHAPTER 1

INTERPRETATION

Definitions

1. In these regulations a word or phrase to which a meaning has been assigned in the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000), has that meaning and, unless the context otherwise indicates-

“**employer**” means the municipality employing a person as a municipal staff member.

Scope of Application

2. These regulations apply to all staff members of municipalities.

CHAPTER 2

Staff members as candidates for, and becoming members of Legislatures

3. (1) A staff member who is issued with a certificate in terms of section 31(3) of the Electoral Act (Act No. 73 of 1998), or sections 15(3) or 18(1)(d) of the Local Government: Municipal Electoral Act (Act No. 27 of 2000), stating that she or he is a candidate in an election, shall, not later than the next working day, inform her or his municipality in writing thereof and present a copy of the certificate.

(2) A staff member who has been issued with a certificate as contemplated in sub-regulation (1) shall be deemed to be on annual leave from the date following the date on which the certificate was issued until, if she or he –

- (a) is elected and accepts the election, the date immediately before the date she or he assumes office;
- (b) is elected, but declines the election, the date on which she or he declines the election; or
- (c) is not elected, the date on which the result of the election is declared in terms of section 190 of the Constitution.

(3) If a staff member has insufficient annual leave, she or he shall be deemed to be on unpaid leave for the period in question.

(4) Subject to section 21(2) of the Local Government: Municipal Structures Act (Act No. 117 of 1998), a staff member who has been elected as a member of the National Assembly, a provincial legislature, a municipal council, and or nominated to the National Council of Provinces shall be deemed to have resigned from the municipality concerned with effect from the date she or he assumes office.

Maintaining continuity of job functions and services

4. When a staff member has been granted leave in terms of sub-regulation 2, the municipality must ensure the continuity of the job functions, responsibilities and accountability by appointing another staff member for the duration of leave granted to act on behalf of that staff member who is a candidate in the elections.

Staff members with Performance Agreements

5. (1) When a staff member has been granted leave in terms of sub-regulation 2, the municipality shall ensure that arrangements are made to continue the implementation of all performance objectives, targets and timeframes, main tasks, (including projects relevant to the employers responsibilities) as set out in the performance plan for the duration of the leave that has been granted to the staff member who is a candidate in the elections.

(2) Leave that has been granted to a municipal staff member participating as a candidate shall not unduly or adversely affect that staff member in elections. The leave shall be taken into account in the municipality's performance management system and in that staff member's performance assessment and annual performance appraisal.

(3) If no performance agreement has been entered into between the municipality and the municipal staff member who participates as a candidate in elections, the municipality shall ensure that arrangements are made to continue the implementation of all the main tasks of the job for the duration of the leave that has been granted to the staff member participating as a candidate in elections.

Use of a municipality's equipments and facilities

6. A municipal staff member, participating as a candidate in elections, may not use -

- (a) any equipment, finance, revenue, and facilities, that belong to and are wholly provided by the municipality, for the purposes of promoting his or her candidature in elections, except facilities such as community halls, and any public amenities, which may be accessed through the normal and legal procedures and by-laws that apply to all members of the public, political parties, community and professional institutions; and
- (b) any other property, whether movable or immovable, that belong to and are wholly owned by the municipality, including, but not limited to communication technology, land-line telephones, cell phones, municipal funds, stationary, photocopying machines, computers, signatures and emblems, vehicles, e-mails, faxes, postage facilities and address lists, internet resources, for purposes of promoting his or her candidature in elections.

Use of a municipality's data and information

7. A staff member, participating as a candidate in elections, may not use any data and information, which is not in the public domain, belongs to and is funded and managed by the municipality, for the purposes of promoting his or her candidature in elections.

Use of or acceptance of any assistance from other staff member/s

8. (1) A staff member, who participates as a candidate in elections, may not use the services of any staff member of a municipality including staff members directly or indirectly reporting to that staff member, for purposes of promoting his or her candidature in elections or for undertaking any direct or indirect activities while carrying out their daily duties and responsibilities as staff members of the municipality.

(2) A staff member, who participates as a candidate in elections, may not accept or receive any assistance directly or indirectly from staff members of a municipality while carrying out their daily duties and responsibilities as staff members of the municipality, for the purposes of promoting his or her candidature in elections.

The municipality's right to urgently request critical information and documents for purposes of business continuity and management of the municipality

9. Should a need arise, and depending on the seniority of the staff member, a municipality may instruct the staff member who participates as a candidate in elections, even while on leave, to urgently attend a meeting of the municipality and or to provide urgent and critical information and documents for purposes of business continuity, the efficient and effective management of the municipality, financial accountability and for the maintenance of good governance policies and procedures.

Breach of these Regulations

10. Non-compliance with these regulations by a municipal staff member will be regarded as misconduct.

Short Title

11. These Regulations are called the Participation of Municipal Staff Members as Candidates for National, Provincial and Municipal Elections.

Date of effect of the regulations

12. These Regulations come into operation on the date of promulgation.