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## GOVERNMENT NOTICE

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### MINISTRY FOR COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

No. R. 210

10 March 2011

#### LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000

#### REGULATIONS REGARDING THE PARTICIPATION OF MUNICIPAL STAFF MEMBERS IN ELECTIONS

I, Emmanuel Nkosinathi Mthethwa, Acting Minister for Cooperative Governance and Traditional Affairs hereby, under section 71A, read with section 120 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and after consultation with the South African Local Government Association, make the regulations in the Schedule.

## SCHEDULE

### Definitions

1. In these Regulations any word or phrase to which a meaning has been assigned in the Act, shall have the meaning so assigned and, unless the context otherwise indicates—

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

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

### Scope of Regulations

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

### 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, 1998 (Act No. 73 of 1998), or section 15(3) or 18(1)(d) of the Local Government: Municipal Electoral Act, 2000 (Act No.27 of 2000), shall, on the working day following the day on which she or he receives the certificate, present a copy of the certificate to her or his employer.

(2) A staff member contemplated in subregulation (1), shall be deemed to be on annual leave from the working day contemplated in subregulation (1) until the date on which the result of the election is declared in terms of section 190(c) of the Constitution.

(3) If a staff member is elected, she or he shall apply for further annual leave until her or his resignation in terms of subregulation (5).

(4) If a staff member has insufficient annual leave, she or he shall be deemed to be on unpaid leave for the period of leave taken in excess of her or his available annual leave.

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

**Use of employer's property**

4. A staff member, who is a candidate in elections, may not, for the purpose of her or his election campaign, utilise—
- (a) any immovable property of the employer but may utilise community halls, and any public amenities on the same terms and conditions applicable to—
    - (i) ordinary members of the public;
    - (ii) political parties; or
    - (iii) community and professional institutions; and
  - (b) any movable property of the employer, including any—
    - (i) financial resources;
    - (ii) communication technology;
    - (iii) equipment;
    - (iv) official emblems;
    - (v) official transportation;
    - (vi) official mailing lists; and
    - (vii) intellectual property.

**Assistance from other staff members**

5. A staff member, who is a candidate in elections, may not, during working hours, utilise or accept assistance from any staff member of the employer for the purpose of promoting her or his election campaign.

**Breach of Regulations**

6. Any staff member contravening these Regulations shall be guilty of misconduct.

**Short title**

7. These Regulations are called the Regulations regarding Participation of Municipal Staff Members in Elections, 2011.

**Commencement**

8. These Regulations shall enter into force on the date of publication.