

# MAKHADO MUNICIPALITY

## DRAFT BY-LAWS FOR THE REGULATION OF BURSARY LOANS

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#### 1. Interpretation

In these by-laws –

**"Bursary loan"** means an advance for study or training purposes which is repayable by the recipient;

**"Bursary Loan Fund"** means the fund established by the Council in terms of the provisions of section 79(51) of the Local Government Ordinance, 1939;

**"Compulsory service"** means service which a person must render under any national law, such as military service, but does not include service arising from a criminal conviction, such a community service;

**"Council"** means the Makhado Municipal Council;

**"training institution"** means any university, university college, educational institution or school contemplated in section 79(16)(d) of the Local Government Ordinance, 1939, any other university, technikon or college established in the Republic in terms of any law, a correspondence college registered in terms of the Correspondence Colleges Act, 1965, or the institute of Town Clerks for Southern Africa or a similar institute or body approved by the Administrator.

#### 2. Principles and objectives

Council, acting as an organ of state within the wider ambit of national and provincial laws, has the right to financially support people to further their education, and for these purposes adopt these by-laws to administer and control in a procedurally fair manner bursary loans which it decides to grant.

### **3. Application**

These by-laws apply within the areas under the jurisdiction of the Makhado Municipal Council and to residents within the area who wish to make use and who are making use of bursary loans granted by the Council.

### **4. Legislative framework**

These by-laws fall within the legislative framework of the -

- (a) Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);
- (b) Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000); and
- (c) Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

### **5. Bursary Loan Fund**

- (1) The Council may establish a Bursary Loan Fund for the granting of bursary loans to persons for study or training at a training institution each of which bursary loans shall be for a period fixed by the Council, but not exceeding five years, subject to the conditions of these by-laws.
- (2) As many bursary loans may be granted each year as may be determined by the Council within the limitation of money available in the Bursary Loan Fund.
- (3) The amount of every bursary loan is determined by the Council, however, the annual amount thus granted by the Council to a person, may not exceed the annual registration fees, class fees, lecture fees, examination fees or tuition fees and similar payments, including moneys for study material and board and lodging of the training institution at which the person is studying or receiving training.

### **6. Application**

- (1) Any person may, subject to subsections (2) and (3), apply for a bursary loan.
- (2) An application, in the prescribed form, must be lodged with the Municipal Manager.
- (3) The Council, acting within the framework of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), must treat each application for a bursary loan on its merits and in accordance with the principles and objectives of these

by-laws, and the Council reserves the right to approve an application and grant a bursary loan, or to refuse an application.

- (4) The following persons shall receive preference:
  - (a) a person who passed his or her matriculation examination within the Makhado Municipal Area;
  - (b) a person who is an employee of the Council; or
  - (c) a person whose parents or a guardian resides within the Makhado Municipal area.
- (5) All applicants must comply with the following conditions:
  - (a) The applicant must be a South African citizen; and
  - (b) The applicant's qualifications must be such as to qualify for the proposed study or training.
- (6) Council must, within a reasonable time after the application form has been lodged, in writing notify the applicant if the application has been approved or refused, and –
  - (a) if the application is refused, Council must supply to the applicant the reasons why the application was refused; or
  - (b) if the application is approved, Council must forward a notice of approval and one set of the application form to the applicant, and must specify in the notice of approval the conditions to which the bursary loan is subject.
- (7) Council must keep a register which is open to public inspection at all reasonable hours and which contains the following particulars of the bursary loan for which approval was granted:
  - (a) the application which was made to Council;
  - (b) the name and the address of the applicant;
  - (c) the date of the application;
  - (d) the decision of the Council;
  - (e) the amount of the bursary loan; and
  - (f) the conditions relating to the bursary loan.

**7. Payment to institution**

The payment of registration fees, class fees, lecture fees, examination fees or tuition fees and similar payments including moneys for study materials and board and lodging shall be made directly to the training institution.

**8. Suspension of bursary loan**

Where a person to whom the bursary loan has been granted does not at the end of the year obtain a pass which will enable him or her to proceed with the next prescribed study or training course, the bursary loan shall automatically be suspended, however, if the person, otherwise than at the expense of the Council, within one year after such suspension obtains the necessary pass, the Council may reinstate the bursary loan for the remaining period as if no suspension had occurred.

**9. Interest on bursary loans**

Subject to the provisions of section 10, interest at the rate of 5% per annum accrues on bursary loans from date of payment of advances until the date on which the first repayment instalment falls due as hereinafter provided. After such date interest shall accrue at a rate to be determined by the Council when the application for a bursary loan is considered by the Council. Such interest shall be calculated from such date of repayment up to the end of the calendar half-year in which such date occurs and thereafter half-yearly in advance on balances due from time to time.

**10. Repayment of bursary loan**

(1) The following apply to the repayment of bursary loans, together with interest as aforesaid:

- (a) repayment is by way of equal monthly instalments over double the number of months in the period over which the total amount advanced by the Council was disbursed, however, the period of suspension of loans in terms of section 8, is not included in such period;
- (b) instalments are payable to the Council within the first seven days of each calendar month commencing on the first day of the month following the

month in which he or she finally completed his or her study or training course; and

- (c) should the study or training course be abandoned, the full amount advanced, with interest is due and payable and must be paid before the seventh day of the month following the month in which the study or training course is abandoned.
- (2) Should a person complete the prescribed study or training course within the minimum prescribed period he or she is not liable for interim interest on advances, but is liable for interest only at a rate determined by the Council, as provided in section 9, on the total amount advanced from the date specified in subsection (1).
- (3) Should a person be obliged to suspend his study or training course for the purpose of compulsory service, he or she shall not be penalized as a result of such service.
- (4) Recipients of bursary loans may, with the consent of the Council, repay such loans over a shorter period, and the Council reserves the right to prescribe further conditions in such an event.
- (5) Notwithstanding provisions to the contrary the Council may, in the event of a person continuing his or her studies or training as a result of exceptional achievements and merits or who is not in a position, owing to circumstances beyond his or her control, to repay the bursary loan as required, in its sole discretion grant such extension of time for the repayment of the bursary loan.
- (6) The Council may in its discretion exempt or partly exempt employees who are recipients of bursary loans in terms of Section 6(4)(b), from repayment of such bursary loans on conditions as may be agreed upon between the Council and the employee, and with the written permission of the employee repayments may be deducted from his or her salary.

#### **11. Date of completion of abandonment**

The date of completion or abandonment by a person of a course of study or training for which bursary loan has been granted is irrefutably the date stated to be such by letter

addressed to the Municipal Manager by the principal of the training institution concerned or by a person acting under his or her authority.

## **12. Failure to pay instalment**

In the event of any person to whom a bursary loan has been granted failing to pay any instalment as provided in section 10 within 14 days after due date, then notwithstanding anything above contained, the Council has the right to claim immediate payment of the total outstanding amount of such loan, together with interest.

## **13. Death**

In the event of the death of any person to whom a bursary loan has been granted, before the repayment to the Council of the loan and interest thereon, then notwithstanding anything above contained, the total amount owing to the Council at the date of death immediately becomes due and payable in full and such amount continues to bear interest as aforesaid until the date of repayment.

## **14. Surety**

- (1) Every person to whom a bursary loan has been granted must, subject to subsection (2) and (3), together with two other persons approved by the Council who must bind themselves jointly and separately to the Council as sureties for and co-principal debtors with the said person, sign an undertaking in such form as the Municipal Manager from time to time prescribe for the due repayment of such loan, together with interest thereon, as provided in these by-laws, and no payment by the Council of any bursary loan shall be made until such undertaking shall have been signed and shall have been deposited with the Municipal Manager.
- (2) The Council may, in any one or more cases at its discretion accept a guarantee which is acceptable to the Council, for the repayment of such loans together with interest thereon as provided in these by-laws, *in lieu* of the two sureties mentioned in subsection (1).

- (3) The Council may, in any one or more cases at its option, safeguard itself against loss by way of insurance, and the Council is entitled but not obliged to debit the cost of any such insurance premium to the account of the person concerned.

**15. Revocation**

The Louis Trichardt Municipality: By-laws for the regulation of bursary loans, Notice 9 of 2 January, 1985 are hereby revoked.