

SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL

WESTERN CAPE REGIONAL OFFICE

PO 19
SANLAMHOF
BELLVILLE
7532

7 De Villiers Street
Bellville
7530

Tel: (021) 917 1141
Fax (021) 917 1145
E-mail: eloise@salqbc.org.za

Enquiries / Navrae: E. Roos

FAX TRANSMISSION

TO:
AAN:

Eden District Municipality

FOR ATTENTION:
VIR AANDAG:

The Municipal Manager

FAX NR:
FAKSNO:

086 555 6303 / 044 874 1013

REFERENCE:
VERWYSING:

CIRCULAR 02/2016:

MESSAGE:

BOODSKAP: CIRCULAR 02/2016: Western Cape Division

Please refer to the attached circular for your urgent attention

Thank You.

SENT BY:
GESTUUR DEUR:

Eloise Roos

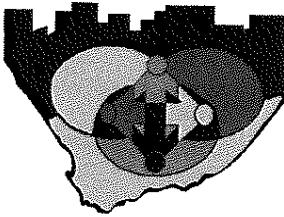
DATE:
DATUM:

29.03.2016

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Enquiries: Ms E. Roos

CIRCULAR: 02/2016 - WESTERN CAPE DIVISION

29 MARCH 2016

- TO: (A) THE MAYORS**
- (B) MANAGER OF MUNICIPALITIES AND DISTRICT MUNICIPALITIES**
- (C) CHAIRPERSONS OF IMATU AND SAMWU BRANCHES**
- (C) SECRETARIAT OF IMATU, SAMWU AND SALGA**

1. THE CONDITIONS OF SERVICE COLLECTIVE AGREEMENT OF THE WESTERN CAPE DIVISION

Attached please find the Conditions of Service Collective Agreement as concluded at the Bargaining Meeting of the Western Cape Division on 23 March 2016.

Please be advised that the agreement should be implemented on 1 April 2016.

Your co-operation is appreciated.

Yours faithfully

**MS W BRINK
REGIONAL SECRETARY**

THE SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL

(hereinafter referred to as "the Council")

**COLLECTIVE AGREEMENT ON
CONDITIONS OF SERVICE FOR THE WESTERN CAPE DIVISION OF THE
SALGBC**

In accordance with the provisions of the Labour Relations Act, 1995 made and
entered into by and between the:-

SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION

(hereinafter referred to as "SALGA", the Employers' Organisation)

and

INDEPENDENT MUNICIPAL AND ALLIED TRADE UNION

(hereinafter referred to as "IMATU")

and

SOUTH AFRICAN MUNICIPAL WORKERS' UNION

(hereinafter referred to as "SAMWU")

(IMATU and SAMWU will together be referred to as the "Trade Unions")

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1. SCOPE OF AGREEMENT

- 1.1 This agreement shall apply to all employees and employers who fall within the scope of the Western Cape Division of the SALGBC in the Republic of South Africa.

2. DEFINITIONS

- 2.1 All expressions used in this agreement which are defined in the Labour Relations Act, 1995, shall have the same meaning as in the Act, unless the contrary intention is clear.
- 2.2 Words indicating the masculine gender shall include the feminine gender.
- 2.3 All references to days shall be to working days.
- 2.4 Special leave means the different categories of leave as listed under clause 5.
- 2.5 Definition of Registered Medical Practitioner – means a person entitled to practice as a medical practitioner in terms of section 17 of the Medical, Dental and Supplementary Health Services Professions Act, 1974 (Act No 56 of 1974).
- 2.6 Earnings threshold shall mean the top notch of the salary scale (T-grade) within which the Basic Conditions of Employment Act, 1997 earnings threshold determination falls, as amended from time to time.

3. OBJECTIVE

- 3.1 To establish common and uniform conditions of service as referred to herein for employees within the scope of the Division, and to replace all existing conditions of service referred to herein.

4. PERIOD OF OPERATION

- 4.1 This agreement shall come into operation in respect of the parties to the agreement on 1 April 2016 and shall terminate on 30 June 2019.
- 4.2 The agreement shall come into operation in respect of non-parties on a date to be determined by the Minister of Labour and shall terminate on 30 June 2019.

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5. SPECIAL LEAVE

5.1 Study Leave

- 5.1.1 Study leave shall be granted in accordance with Council policy. Where no policy exists study leave shall be granted by the Municipal Manager or his assignee, which approval shall not be unreasonably withheld.
- 5.1.2 Study leave shall be granted on the basis of one day paid special leave for each day that an employee writes an examination plus an equivalent amount of days for preparation for examination, subject to clause 5.1.3. When two subjects/modules are written on one day, study leave shall be granted on the basis of one day paid special leave for the day of the examination plus an equivalent amount of days for preparation per subject/module for preparation for that examination.
- 5.1.3 When an employee is required to write only one examination on one day in a calendar year, he shall be entitled to three days' special paid leave which shall include the day of examination.
- 5.1.4 The said leave for writing examinations in terms of clause 5.1.1 must be approved in advance by the Municipal Manager or his assignee, and the request for leave must be accompanied by the examination roster or sufficient proof of the examination being written.

5.2 Leave of absence for obligatory course/study requirements

- 5.2.1 The fields of study must be approved in advance in accordance with Council policy and must be in accordance with requirements of the curriculum of the approved course. Where no policy exists the fields of study must be approved in advance by the Municipal Manager or his assignee, which approval shall not be unreasonably withheld.
- 5.2.2 An employee attending a training or study course subject to Council policy shall be granted up to ten (10) days' and thereafter one (1) day's paid special leave for every day's leave taken by the employee.
- 5.2.3 Leave referred to in clauses 5.1 and 5.2 shall be granted for a maximum of twice per subject/module to allow for supplementary examinations.

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5.2.4 Clause 5.2 does not apply to compulsory training initiated by the employer. An employee attending compulsory training initiated by the employer shall be granted paid special leave for the full duration of the obligatory attendance requirements.

5.3 To attend a court of law to give evidence on being summonsed as a witness

5.3.1 On receipt of a written subpoena, any employee who is summonsed to attend a Court of Law as a witness shall be granted paid special leave for the period of absence from duty, provided that a witness fee received, excluding a travel and subsistence allowance, shall be reimbursed or recovered from the employee whatever the case may be.

5.3.2 Any employee who is arrested and appears in court as a result of charges laid by his employer and who is later acquitted shall be granted paid special leave for the period of incarceration.

5.4 Sports participation

Any employee who is elected by a recognized sports association, which sports association must be recognized by the South African Sports Confederation and Olympic Committee (SASCOC), to:

5.4.1 Represent South Africa or the Province as participant in SASCOC recognized international or national sports competitions inside as well as outside the Republic of South Africa;

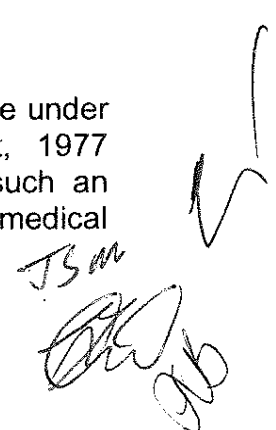
5.4.2 Accompany teams that will represent South Africa at SASCOC recognized international sports competitions inside as well as outside the Republic of South Africa as coach or manager;

5.4.3 Officiate at SASCOC recognized international sporting event where the employee represents South Africa and a National South African sports team participate;

Shall be granted paid special leave for the duration of the event for these purposes, subject to clause 5.8.4.

5.5 Quarantine and isolation under medical instructions

Where a registered medical practitioner has placed an employee under quarantine/in isolation in terms of the Public Health Act, 1977 (Act No 63 of 1977) or any regulations in force thereunder, such an employee shall be granted paid special leave, provided that the medical



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certificate issued details the period of absence and the reason therefore.

5.6 Compensation for occupational injuries and diseases

Any employee who sustains an injury or contracts an illness in the course of his official duties such as to entitle the employee to compensation in terms of the Compensation for Occupational Injuries and Diseases Act, 1993, shall be granted paid special leave for the period of incapacitation.

5.7 Leave without pay

(Remuneration for this purpose as referred to in the Basic Conditions of Employment Act, 1997.)

Leave without pay as approved by the Municipal Manager or his assignee, which approval shall not be unreasonably withheld, shall be subject to the following conditions:

- 5.7.1 Leave without pay shall be granted only when all available vacation and/or sick leave has been exhausted.
- 5.7.2 For the period of leave without pay Council shall continue to make employer's contributions only to the employee's group life insurance scheme, pension and medical aid fund, provided that the employee also makes his contributions to the said funds, as well as any payment in terms of a collective agreement.

5.8 Application for Special Leave

- 5.8.1 Exigencies of the service must be taken into consideration.
- 5.8.2 Supporting documents must be provided with the application.
- 5.8.3 Application for special leave must be approved by the Municipal Manager or his assignee, shall be considered in a bona fide manner, and shall not be unreasonably refused.
- 5.8.4 Special leave shall not exceed 20 working days in a leave cycle; however, this limitation does not apply to clauses 5.5, 5.6 and 5.7.1.

6. ADDITIONAL SICK LEAVE

Employees who have not taken more than 20 days' sick leave at the end of a three year cycle shall receive an additional ten working days' paid sick leave to which they will be entitled in the ensuing cycle, provided that in respect of any sick leave cycle no employee shall become entitled to more than 120 working days' sick leave on full pay in a sick leave cycle.

7. ADMINISTRATIVE MEASURES FOR TAKING SICK LEAVE

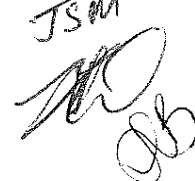
- 7.1 If an employee to whom annual leave has been granted is certified sick by a registered medical practitioner after his annual leave has commenced, that part of his annual leave during which he was thus certified sick shall be converted into sick leave on submission of the prescribed certificate by such a registered medical practitioner.
- 7.2 If due to illness an employee is unable to take annual leave already deducted, he shall be credited with an equal number of days' annual leave.
- 7.3 An employee may not during any period of sick leave approved in terms of these conditions resume service without the written approval of a registered medical practitioner. If an employee reports for duty earlier than what is provided for on the sick leave certificate, the employee must provide a letter from the medical practitioner proving fitness for work.
- 7.4 If an employee leaves the workplace on sick leave within three hours after he has assumed his normal hours of work, the employee shall be granted paid sick leave for the day, provided that he completes a sick leave form in respect of that day, and subject to having sick leave to his credit.
- 7.5 An employee who is absent from service because of illness must take all reasonable steps to notify his immediate supervisor (or assignee) within three hours after he should have commenced duty.
- 7.6 Any employee to whom the maximum period of sick leave on full pay has been granted shall be granted sick leave without pay, subject to clause 5.7 of the Western Cape Conditions of Service Collective Agreement, provided that the employee is examined by a registered medical practitioner appointed by the Municipality. The cost of such examination shall be borne by the Municipality.
- 7.7 Medical certificates must be issued by a registered medical or dental practitioner or a Traditional Healer registered with a recognized professional council in terms of legislation.

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8. ACTING ALLOWANCE

- 8.1 An employee is entitled to an acting allowance when he is requested by written instruction by his superior in terms of Council's delegation policy to act in a higher post for a period of at least ten consecutive working days, including public holidays and compulsory closing of office during the festive season.
- 8.2 An acting allowance equal to the difference between his pensionable salary and the commencing notch of the salary scale of the post in which he is acting shall be paid to the employee for the period of acting.
- 8.3 Where an employee's salary is higher than the commencing notch of the salary of the post in which he is required to act, an acting allowance amounting to five per cent of his pensionable salary shall be paid.
- 8.4 If an employee is requested to act in terms of clause 8.1, the employer shall not unreasonably stop or interrupt the acting period of the employee resulting in the non-payment of an acting allowance.
- 8.5 Council, subject to the Local Government: Municipal Systems Act, 2000 and in consultation with the Municipal Manager, may resolve that an employee should act in a section 56 post in terms of clauses 8.1 and 8.2, in which case the following shall apply:
- 8.5.1 The employee shall in addition to his salary receive an acting allowance for the period of acting.
- 8.5.2 The salary component for determining the acting allowance will be 60 per cent of the remuneration package of the post in which the employee is acting.
- 8.6 Subject to clause 8.7 an employee will not be paid an acting allowance whilst he is on any form of leave or any other absence during the acting period.
- 8.7 If an employee has acted for a continuous period of three months or longer, he will qualify for an acting allowance while on paid leave.
- 8.8 The acting period referred to in clause 8 must not exceed nine consecutive working months, whereafter the post must be advertised and filled on a competitive basis. This is only applicable to acting as from the date of the commencement of this agreement.
- 8.9 Every municipality shall determine a delegation policy for the purposes of clause 8.1. Where there is no such policy in place, any written instruction by a superior to act in a higher post shall qualify as an instruction for the purposes of clause 8.1. Such a policy must be communicated to all employees.

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9. NIGHT-WORK ALLOWANCE

9.1 For the purpose of this clause **only** posts where the earnings fall below the earnings threshold in terms of this agreement shall be eligible for the payment of a night-work allowance.

9.2 An employee is entitled to a night-work allowance when by written instruction by his superior he is requested in terms of Council's delegation policy to perform night-work.

9.3 The employee shall be compensated in the form of a night-work allowance for night-work according to the following formula:

Pensionable annual salary ÷ number of working days (calendar days – public holidays – weekends) ÷ 8 x 18% = hourly night-work allowance.

NOTE: The formula in clause 9.3 could also be expressed as follows:

$18/100 \times (\text{annual pensionable salary} \div 249 \div 8) \times \text{actual number of hours working night-work.}$

9.4 Every municipality shall determine a delegation policy for the purposes of clause 9.2. If no such policy is in place, any written instruction by a superior to perform night-work shall qualify as an instruction for the purposes of clause 9.2. Such a policy must be communicated to all employees.

9.5 Only employees whose working hours fall between 18:00 and 06:00 the next day shall qualify for compensation in terms of this policy.

9.6 In terms of section 6(2) of the Basic Conditions of Employment Act, "Sections 9, 10(1), 14(1), 15(1), 17(1) and 18(1) shall not apply to work that must be done without delay due to circumstances which the employer could not reasonably be expected to provide for and which could not be performed by employees during their normal working hours." Section 17(2) deals with the payment of a night-work allowance. Therefore, employees on standby who work overtime between 18:00 and 06:00 shall receive a night work allowance, subject to clause 9.7 and 9.8.

9.7 When it is required of an employee to perform work on a regular basis after 23:00 and before 06:00 the next day, a manager must:

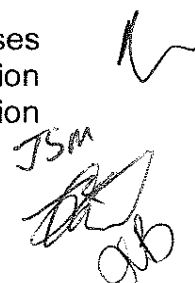
9.7.1 Inform the employee in writing or orally if the employee is not able to understand a written communication, in a language that the employee understands:

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- 9.7.1.1 of any health and safety hazards associated with the work that the employee is required to perform; and
- 9.7.1.2 of the employee's right to undergo a medical examination in terms of clause 9.7.2.
- 9.7.2 At the request of the employee, enable the employee to undergo a medical examination, for the account of the employer, concerning those hazards:
 - 9.7.2.1 before the employee starts, or within a reasonable period of the employee starting such work, and at appropriate intervals while the employee continues to perform such work; and
 - 9.7.2.2 at appropriate intervals while the employee continues to perform such work.
- 9.7.3 Transfer the employee to suitable day work within a reasonable time of the employee suffering from a health condition associated with the performance of night-work, provided that it is practical for the employer to do so *and after due consultation has taken place.*
- 9.8 For the purpose of clause 9.7 an employee performs night-work on a regular basis if the employee works for a period of more than one hour after 23:00 and before 06:00 at least five times per month or 50 times per year, including employees on standby.

10. STANDBY DUTY

- 10.1 An employee is entitled to a standby allowance when he is requested by written instruction by the Municipal Manager or his superior to be available for the performance of duty outside his normal working hours.
- 10.2 The standby allowance shall be payable on the following conditions only:
 - 10.2.1 When the employee is required to be available for duty for a period of at least eight hours during a 24 hour period (based on a 40-hour working week) after normal working hours.
 - 10.2.2 Standby shall not exceed a calendar week provided that an employee shall not be on standby for more than two weeks per month, save where operational requirements dictate otherwise.
- 10.3 Every municipality shall determine a delegation policy for the purposes of clause 10.1. Where no such policy is in place, any written instruction by a supervisor to perform standby duty shall qualify as an instruction



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for the purposes of clause 10.1. Such a policy must be communicated to all employees.

10.4 Standby is calculated:

10.4.1 From the normal closing time of the employee's place of work;
or

10.4.2 On a day on which the employee is not normally required to work.

10.5 The standby allowance shall not affect or be affected by any remuneration for overtime worked by the employee during the period of standby duty.

10.6 The standby allowance shall be equal to 15 per cent of the normal hourly rate based on the pensionable salary formula:

10.6.1 Pensionable annual salary ÷ number of working days (calendar days – public holidays – weekends) ÷ 8 x 15% = hourly standby allowance; and

10.6.2 Shall be paid in a proportionate manner according to the actual number of hours on standby.

NOTE: The formula in clause 10.6.1 above could also be expressed as:

$[15 / 100 \times (\text{annual pensionable salary} \div 249 \div 8)] \times \text{actual number of hours on standby.}$

11. LONG-SERVICE RECOGNITION

11.1 In addition to normal vacation leave, an employee shall qualify for the following additional leave as recognition for continuous long service at the same employer or legal predecessor, which shall be credited once on the date on which the various periods of continuous service are completed. The long service leave must be taken within one year of receiving such leave or may be wholly or partially encashed.

After	10 years	10 working days
	15 years	15 working days
	20 years	20 working days
	25 years	25 working days
	30 years	30 working days
	35 years	35 working days
	40 years	40 working days
	45 years	45 working days

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- 11.2 In addition to the above, an employee shall be entitled to a 14th cheque for continuous employment on 30, 35, 40 and 45 years.

12. OVERTIME

- 12.1 An employee shall be entitled to paid overtime when he is requested by written instruction by the Municipal Manager or his superior to perform duty outside his normal working hours.
- 12.2 Overtime is generally regulated by the Basic Conditions of Employment Act, 1997 (Section 10) and these provisions govern overtime payment.
- 12.3 Overtime shall be paid or time-off granted to all employees except senior managerial employees as defined in the Basic Conditions of Employment Act, 1997 and employees earning in excess of the threshold as determined from time to time.
- 12.4 Time-off may be granted to senior managerial employees as defined in the Basic Conditions of Employment Act, 1997 and employees earning in excess of the earnings threshold as determined from time to time by Council policy.
- 12.5 Employees on standby in terms of clause 10 shall receive overtime payment when called out, irrespective of the statutory threshold.

13. LEGAL INDEMNITY**13.1 Objectives**

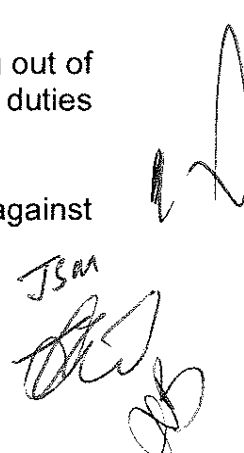
13.1.1 Employees' liability to third parties shall be indemnified and legal assistance shall be provided where appropriate.

13.1.2 The municipality or the Council's interests as well as the employees' interests must be protected and the potential or actual liability arising from the acts or omissions of the municipality or the Council's employees must be indemnified.

13.2 Qualifying Requirements

Provided that the employee acted in good faith and without malice arising out of any act or deed done or omitted by an employee within the scope of his duties or employment, it shall be the municipality or Council's policy to:

13.2.1 Indemnify the municipality or Council's employees against personal civil liability so incurred;

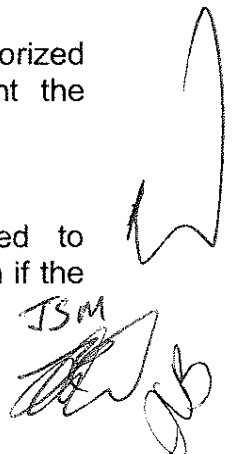
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- 13.2.2 Make no claim against employees based on such personal liability;
- 13.2.3 Provide legal assistance to employees in the following circumstances:
- 13.2.3.1 When they are required to appear before or be interviewed in connection with a judicial, investigative, or other inquest or inquiry;
 - 13.2.3.2 When they are sued or threatened with a suit;
 - 13.2.3.3 When they are charged or likely to be charged with an offence; or
 - 13.2.3.4 When they are faced with other circumstances that are sufficiently serious as to require legal assistance.
- 13.2.4 These provisions shall not apply to legal assistance for claims or actions that employees initiate.

13.3 Process Requirements

- 13.3.1 Any employee shall be entitled to obtain legal indemnification. To be eligible to receive legal assistance an employee must:
- 13.3.1.1 Inform the Head of Department (HOD) or relevant supervisor of the matter at the earliest reasonable opportunity after the employee becomes aware of a possible claim or proceeding as a result of any alleged act or omission within the scope of the employee's duties or employment;
 - 13.3.1.2 Make a complete report to the HOD of the incident leading to the requirement for indemnification or legal assistance, and the relevant superior must ensure that a report is submitted to the HOD; and
 - 13.3.1.3 Accept the legal representative authorized by the delegated authority to represent the employee.
- 13.3.2 The Municipal Manager shall be compelled to approve an application for legal indemnification if the

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application complies with the requirements of this policy.

- 13.3.3 The Municipal Manager can only authorize legal assistance at the municipality or the Council's expense when it has been determined that the employee acted in good faith and without malice within the scope of his duties or employment.

**14. WORKING HOURS: LAW ENFORCEMENT PERSONNEL
(Traffic and Police Services)**

All Law Enforcement personnel shall commence working a 40-hour working week within six months of the implementation of this agreement.

15. DISPUTE ABOUT IMPLEMENTATION AND APPLICATION OF THIS AGREEMENT

15.1 Any person or party may refer a dispute about the interpretation or application of this collective agreement to the Regional Secretary of the Council.

15.2 The Regional Secretary shall in the event of a dispute not being resolved:

15.2.1 Appoint a conciliator from the appropriate panel of conciliators, (doing so as far as possible on a rotational basis); or

15.2.2 If the dispute remains unresolved, refer the dispute to arbitration.

15.3 Once a conciliator has been appointed, the Regional Secretary shall decide the date, time and venue of the conciliation meeting and shall serve notices of these particulars on the parties to the dispute.

15.4 If the dispute is referred to arbitration, the Regional Secretary shall appoint an arbitrator from the appropriate panel of arbitrators, doing so as far as possible on a rotational basis.

15.5 The Regional Secretary, in consultation with the arbitrator, shall decide the date, time and venue of the arbitration hearing.

15.6 The arbitrator shall:

15.6.1 Endeavour to conciliate the dispute unless the parties to the dispute advise the arbitrator that the dispute has been properly conciliated; and

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15.6.2 If the dispute remains unresolved, resolve the dispute through arbitration.

15.7 The arbitrator may make any appropriate arbitration award in terms of the Act that gives effect to the collective agreement.

16. EXEMPTIONS

16.1 Any person bound by this agreement shall be entitled to apply for exemption from this agreement.

16.2 All applications for exemption from any provisions of this agreement must be in writing and lodged with the Regional Secretary, which applications shall be regulated by the Exemptions from Non-wage Collective Agreements of the SALGBC Western Cape Collective Agreement.

SIGNED AT Belville ON THIS 23 DAY OF MARCH 2016.

A. COETSEE
N3 (MECH) B.PROC (SA)
SEL: 083 283 5237

MEMBER OF THE COUNCIL
(REPRESENTING SALGA)

MEMBER OF THE COUNCIL
(REPRESENTING IMATU)

MEMBER OF THE COUNCIL
(REPRESENTING SAMWU)

REGIONAL SECRETARY OF THE COUNCIL