

MSUNDUZI MUNICIPALITY



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The Msunduzi Municipality

DEBT WRITE-OFF POLICY

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1. **DEFINITIONS**

In this policy, unless the context indicates otherwise, the word or expression has the following meaning:

- 1.1 **“Accounting Officer”** The Municipal Manager of a municipality is the accounting officer of the municipality for the purposes of this Act, and, as accounting officer, must— (a) exercise the functions and powers assigned to an accounting officer in terms of this Act; and (b) provide guidance and advice on compliance with this Act to— (i) the political structures, political office-bearers and officials of the municipality; and (ii) any municipal entity under the sole or shared control of the municipality.
- 1.2 **“Account Holder”** includes a customer/consumer and refers to any occupier of any premises to which Council has agreed to supply or is actually supplying services, or if there is no occupier, then the owner of the premises and includes any debtor of the municipality;
- 1.3 **“Arrangements”** means a formal agreement entered into between the Council and a debtor where an arrear debt repayment was agreed to.
- 1.4. **“Arrears”** means any amount due, owing and payable by an account holder in respect of a municipal account not paid on the due date;
- 1.5. **“Chief Financial Officer”** refers to the person so designated in terms of Section 81 of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003) or any person duly authorised to act on behalf of such person.
- 1.6 **“Council”** means The Msunduzi Municipality and refers to a municipal Council as referred to in S157 of the Constitution.
- 1.7 **“Financial year”** refers to the period starting from 1 July and ending 30 June of the ensuing year;
- 1.8 **“Interest”** is a charge levied and calculated at a rate determined by law from time to time on all arrear amounts owing;
- 1.9 **“Municipality”** when referred to as:
- (a) a corporate body, means a municipality as described in Section 2 of the Municipal Systems Act, 2000 (Act No. 32 of 2000);
 - (b) a geographic area means a municipal area determined in terms of the Local Government Municipal Demarcation Act, 1998 (Act No. 27 of 1998).
 - (c) Section 155(6) of the Constitution.
- 1.10 **“Municipal Manager”** means the person appointed as Municipal Manager in terms of Section 82 of the Local Government Municipal Structures Act, 1998, (Act No. 117 of 1998) and includes any person acting in that position or to whom authority has been delegated;
- 1.12 **“Official”** refers to an employee of The Msunduzi Municipality

1.13 “Owner” means

- (a) In relation to property referred to in paragraph (a) of the definition of “property”, means a person in whose name ownership of the property is registered;
- (b) In relation to a right referred to in paragraph (b) of the definition of “property”, means a person in whose name the right is registered;
- (c) In relation to a land tenure right referred to in paragraph (c) of the definition of “property”, means a person in whose name the right is registered or to whom it was granted in terms of legislation; or
- (d) In relation to public service infrastructure referred to in paragraph (d) of the definition of “property”, means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of “publicly controlled”, provided that a person mentioned below may for the purposes of this Act be regarded by a municipality as the owner of a property in the following cases:
 - (i) A trustee in the case of a property in a trust excluding state trust land;
 - (ii) An executor or administrator, in the case of a property in a deceased estate;
 - (iii) A trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
 - (iv) A judicial manager, in the case of a property in the estate of a person under judicial management;
 - (v) A curator, in the case of a property in the estate of a person under curatorship;
 - (vi) A person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
 - (vii) A lessee, in the case of a property that is registered in the name of a municipality and is leased by it; or
 - (viii) A buyer, in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

2. INTRODUCTION

- 2.1 To ensure that household consumers with no or lower income are not denied a reasonable service and that the Municipality is not financially burdened with non-payment of services, Msunduzi Municipality does have an approved Indigent Policy.
- 2.2 However, the Council is faced with a significant amount of outstanding debt and the continuous defaulting by certain consumers who can afford to pay for services. To deal with this, the Council also approved a revised Credit Control and Debt Collection Policy.
- 2.3. Despite strict enforcement of the above policies, Council will continuously be confronted by circumstances requiring the possible write-off of irrecoverable debt.

3. PURPOSE OF THE POLICY

- 3.1 The purpose of this policy is to provide a framework for regulating the writing-off of irrecoverable debt and the consequent further enhancement of the municipality's debt management strategy.

4. POLICY PRINCIPLES

- 4.1 The following are the guiding principles in implementing the Policy on Writing Off of Irrecoverable Debt:
 - 4.1.1 The policy has been compiled in accordance with the Municipal Finance Management Act (MFMA), 2003, Local Government Municipal Systems Act (MSA), 2000, as amended and other related legislation.
 - 4.1.2 Before any debt is written off it must be proved that the debt has become irrecoverable. To ensure that recommendations for write off are consistent and accurate, irrecoverable debt will be defined as debt where:
 - The tracing of the debtors is unsuccessful; and
 - All reasonable steps were taken by the officials to recover the debt. The Debtor has been handed over to the debt collectors and or the attorney employed by the municipality to pursue the debt owed to the municipality.
 - 4.1.3 Bad debt write offs must be considered in terms of cost benefit; when it becomes too costly to recover and the chances of collecting the debt are remote, a write off should be considered at the discretion of the Accounting Officer, together in consultation with the Chief Financial Officer

- 4.1.4 Time value of money is very important because the older the debt becomes, the more difficult and costly it becomes to collect. It is therefore imperative that a proper system of Debt Management is implemented and maintained to avoid debt reaching the stage of becoming too expensive to recover.
- 4.1.5 Differentiation must be made between those household consumers who cannot afford to pay for basic services and those who just do not want to pay for these services.
- 4.1.6 Debt can only be written off if the required provision exists in the Municipality's budget and/ or reserves. The provision for doubtful debts is informed by the Standards of Generally Recognized Accounting Practice (GRAP) 104.

5 CATEGORIES OF DEBTORS THAT MAY QUALIFY FOR THE WRITING OFF OF IRRECOVERABLE DEBT

5.1 Approved Indigent Household Consumers in terms of the Municipality's Indigent Policy

- 5.1.1 Upon approval for registration as an applied indigent consumer, the debtor's outstanding services balance may be written off. The debt write off will be considered after the application is approved.

5.2 Balances on final accounts too small to recover considering the cost for recovery

- 5.2.1 Where final accounts have been submitted and paid by the respective consumer and the remaining balance after finalization of any final readings and other administrative costs results in a balance of one hundred rand (**R100**) or less, such account must be forwarded once to the consumer for payment.
- 5.2.2 Where such account is not paid by the respective consumer within a period of ninety (90) days such amounts will automatically be written off.

5.3 Insolvency of the Debtor and Insolvent Deceased Estates

- 5.3.1 Where a debtor becomes insolvent the Municipality must ensure that a creditor's claim is timeously registered. Any amount not being recovered due to insufficient funds or if there is a risk of a contribution being made to an insolvent estate must, after notification, be written off.

- 5.3.2 In case of death of the debtor, a creditor's claim must be timeously registered against the deceased's estate. Any amount not being recovered due to insufficient funds or if there is a risk of a contribution being made to a deceased estate must, after notification, be written off.

5.4 Untraceable Debtors

- 5.4.1 Any amount owed by a debtor that has become untraceable or uneconomical to collect such arrears, may be written off.
- 5.4.2 Debt written off in the above instances must automatically result in the debtor being reported to the credit bureau by the Municipality or collecting agent.

5.5 Prescribed Debt

5.6 Settlement of the Debt

- 5.6.1 Debtors in arrears may be subjected to legal processes.
- 5.6.2 Given the above, to avoid incurring further costs associated with these legal processes, debtors may opt to settle the debt in full (once off payment).
- 5.6.3 Rather than entering into a payment arrangement to settle the debt, debtors often request a settlement discount.
- 5.6.4 Given the time value of money, a single payment in full and final settlement of the debt, is preferred.
- 5.6.5 The waiving of interest, collection and other charges, may be considered, to facilitate a single payment settlement of the debt.
- 5.6.6 An account, only qualifies for this settlement discount once every five **(5)** years.

5.7 Special Cases

From time to time, Special Circumstances may warrant a write off of debt. These special circumstances will be considered on its merits and will be at the discretion of the Municipal Council.

6 DELEGATIONS FOR DEBT WRITE - OFF

- 6.1 The recommended delegated levels for write off are as follows:
 - 6.1.1 **Chief Financial Officer** – Debtor Account balance up to **R50,000** in consultation with the Senior Manager: Revenue
 - 6.1.2 **Accounting Officer** – Debtor Account balance up to **R1 000,000** in consultation with the Chief Financial Officer
 - 6.1.3 Debtor Account balance that is **R1 000,001+** must be approved by the **Municipal Council** or its delegated authority.

7 GENERAL PROVISIONS RELATING TO DEBT WRITE-OFF

- 7.1 The Accounting Officer shall submit a report to the Council on debts written-off annually.
- 7.2 The Council must in its budget make provision for doubtful debts.
- 7.3 In writing-off a debt, the municipality does not abandon its claim and all amounts recovered in reduction of a debt subsequent to its writing-off shall be recorded in the books of the municipality as income.
- 7.4 The Council may consider attaching conditions to the debt write off, which may improve the payment behavior of a debtor after the write off. **These are not limited to:**
 - 7.4.1 All payments due after the debt write off must be made on or before the due date for a period of 24 months, **failure to ensure payments are made on or before the due date, may result in the debt being written back to the account.**
 - 7.4.2 The debtor must ensure the property is accessible to Council at all times, **failure to allow access to read meters, may result in the debt being written back to the account.**

8 RECOVERY OF IRRECOVERABLE DEBTS

- 8.1 Should there be a payment in respect of the account which has already been written off, such monies must be allocated to the specific general ledger account.

9 IMPLEMENTATION AND REVIEW OF THIS POLICY

- 9.1 This policy shall be implemented once approved by Council. All future submissions for the writing off of debt must be considered in accordance with this policy.
- 9.2 In terms of section 17 (1) (e) of the MFMA this policy must be reviewed on annual basis and the reviewed policy tabled to Council for approval as part of the budget process.