

Letsemeng Local Municipality



Credit Control and Debt Collection Policy

**LETSEMENG LOCAL MUNICIPALITY
CREDIT CONTROL AND DEBT COLLECTION POLICY**

1. DEFINITIONS

1. For the purpose of this policy, the wording or any expression used has the same meaning as contained in the Act, except where clearly indicated otherwise and means the following:

"Act", the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000) as amended from time to time;

"Authorized Representative", the person or institution legally appointed by the Council to act or to fulfil a duty on its behalf;

"Chief Financial Officer" the person appointed by Council to administer its finances;

"Council" the municipal council of the Letsemeng Local Municipality;

"customer" any occupier and/or owner of any property to which the municipality has agreed to supply services or already supplies services to, or failing such an occupier, then the owner of the property;

"defaulter" a person who owes money to municipality after the due date has expired;

"equipment" a building or other structure, pipe, pump, wire, cable, meter, engine or any accessories;

"interest" a charge levied with the same legal priority as service fees and calculated at a rate determined by council from time to time on arrear monies;

"municipality" includes a municipality referred to in section 155 (6) of the Constitution;

"municipal account" an account rendered specifying charges for services provided by the municipality, or any authorised and contracted service provider, and/or assessment rates levies;

"Municipal Manager" the person appointed as Municipal Manager in terms of section 82 of the Local Government: Structures Act, 1998, (Act 117 of 1998) and include any person acting in that position or to whom authority was delegated;

"municipal services" those services provided by the municipality, such as,

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inter alia the supply of water and electricity, refuse removal, sewerage treatment, and for which services charges are levied;

"occupier" any person who occupies any property or part thereof, without taking cognisance of the title in which he or she occupies the property,

"owner" –

(a) the person in whose name the property is legally vested;

(b) in the case where the person in whose name the property is vested, is insolvent or deceased, or is disqualified in terms of any legal action, the person who is responsible for administration or control of the property as curator, trustee, executor, administrator, legal manager, liquidator, or any other legal representative;

(c) in the case where the council are unable to establish the identity of such person, the person who are entitled to derive benefit from the property or any buildings thereon;

(d) in the case of a lease agreement in excess of 30 years was entered into, then the lessee;

(e) regarding:

(i) a portion of land allotted on a sectional title plan and which is registered in terms of the Sectional Title Act, 1986 (Act 95 van 1986), without limiting it to the developer or managing body to the communal property;

(ii) a portion as defined in the Sectional Title Act, the person in whose name that portion is registered in terms of a "sectional title, including the legally appointed representative of such person;

(f) any legal entity including but not limited to :

(i) a company registered in terms of the Companies Act, 1973 (Act 61 of 1973), a trust *inter vivos*, trust *mortis causa*, a closed corporation registered in terms of the Close Corporation Act, 1984 (Act 69 of 1984), and any (ii) any provincial or national government department or local authority;

(iii) any council or management body established in terms of any legal framework applicable to the Republic of South Africa; and

(iv) any embassy or other foreign entity.

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“**property**” any portion of land, of which the boundaries are determined, within the jurisdiction of the municipality; voluntary organisation;

2. CONSTITUTIONAL OBLIGATIONS

- 2.1 The council of the municipality, in adopting this policy on credit control and debt collection, recognises its constitutional obligations to develop the local economy and to provide acceptable services to its residents.
- 2.2 It simultaneously acknowledges that it cannot fulfil these constitutional obligations unless it exacts payment for the services which it provides and for the taxes which it legitimately levies – in full from those residents who can afford to pay, and in accordance with its indigence relief measures for those who have registered as indigents in terms of the council's approved indigent support policy.

3. CODE OF CONDUCT

- 3.1 All the municipal officials shall treat all debtors with dignity and respect at all times. Employees shall execute their duties in an honest and transparent manner whilst protecting the confidentiality of information in accordance with the Promotion of Access to Information Act No.2 of 2000.

4. VISION AND MISSION OF THE POLICY

- 4.1 The vision and mission of the credit control and debt collection policy is:
- 4.1.1 To ensure that all consumers pay for the services that are supplied and consumed according to the approved tariff structure of the municipality.
- 4.1.2 To ensure that all consumer account related enquiries are attended to promptly and diligently.
- 4.1.3 To attend to all the consumers' needs regarding credit control in such manner that it should not be necessary to have property or goods attached for a sale in execution unless under the most extreme circumstances..
- 4.1.4 To ensure that municipal credit control officials are sufficiently trained and that they will be able to attend to all credit control related functions and enquiries.

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- 4.1.5 To ensure sufficient notification of outstanding debt to consumers in default.
- 4.1.6 To provide consumers timeously with monthly statements in order to allow for sufficient payment period before due date.
- 4.1.7 To ensure sufficient and effective interaction with defaulters and to allow for the conclusion of arrangements for the payment of arrears over agreed periods of time.
- 4.1.8 To provide monthly, with the financial report, the payment default position to the mayor.

5. OBJECTIVES

- 5.1 The objectives of this policy are to provide for:
 - 1. Credit control procedures and mechanisms.
 - 2. Debt collection procedures and mechanisms.
 - 3. Relief to indigent households that are consistent with the municipality's
 - 4. Policy on indigent support and free services.
 - 5. The termination or restriction of services when payments are in arrear.
 - 6. Procedures relating to unauthorised consumption of services, theft and damages.
 - 7. Guidelines and procedures for the rendering of accounts.
 - 8. Realistic targets/benchmarks as set by the municipality which is consistent with:
 - a. General recognised accounting practices and collection ratios.
 - b. The estimate income set in the budget minus an acceptable provision for bad debts.

6. PRINCIPLES

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- 6.1 In the execution of its customer care, credit control and debt collection policy the municipality will apply the following principles:
- a) The administrative integrity of the municipality will be maintained at all costs meaning that democratically elected councillors are responsible for the adoption of the policy, while the Municipal Manager must execute the policy.
 - b) All customers must complete an official application form, formally requesting the municipality to connect them to service supply lines
 - c) Changes to legislation, by-laws and policies may require existing customers to complete new application forms.
 - d) A copy of the application form, conditions of services and extracts of the customer care, credit control and debt collection policy and bylaw must be handed to every customer on request at such fees as may be prescribed.
 - e) Billing is to be accurate, timeous and understandable.
 - f) The customer is entitled to reasonable access to pay points; a variety of reliable payment methods; and an efficient, effective and reasonable response to appeals, and should suffer no disadvantage during the processing of such an appeal.
 - g) Enforcement of payment must be prompt, consistent and effective.
 - h) Unauthorised consumption, illegal connection, the tampering with or theft of meters, service supply equipment and the reticulation network and any fraudulent activity in connection with the provision of municipal services will lead to disconnections, penalties, loss of rights and criminal prosecutions.
 - i) Incentives and disincentives may be used in collection procedures.
 - j) The collection process must be cost-effective.
 - k) The executive mayor must report the customer care, credit control and debt collection performance results, regularly and efficiently to Council.

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- l) Application forms will be used to, *inter alia*, categorise customers according to credit risk and to determine relevant levels of services and deposits required.
- m) Targets for performance in both customer service, credit control and debt collection will be set and pursued and remedies implemented for non-performance.
- n) Where practically possible customer care, credit control and debt collection should be handled independently and the organisational structure will reflect the separate functions.

7. EXPECTED PAYMENT LEVELS

- 7.1 In terms of the budgets approved by the council, and in accordance with commonly accepted best practice, the municipality will have to strive to its utmost to ensure that payment levels for the present and future financial years, in respect of all amounts legitimately owing to the municipality – that is, inclusive of the balance of the monthly accounts payable by registered indigents – are maintained at an annual average of at least 95%.
- 7.2 It is generally accepted by this council that payment levels averaging below 95% per month are untenable, and are a certain forerunner of financial disaster for this municipality. Even with payment levels of 95% it means that the council will annually have to provide on its expenses budget a contribution to bad debts of 5% of the aggregate revenues legitimately owing to this municipality – a contribution that is made at the direct cost of improved service delivery and developmental projects.
- 7.3 The only solution to the ongoing problem of non-payment by residents who can afford their monthly commitments to the municipality is to introduce a twofold approach: to promulgate credit control and debt collection by-laws which deal stringently with defaulters, but at the same time – through the formal political structures of the municipality, and in the administration's general dealings with the public – to make the community aware of its legal obligations towards the municipality, and to emphasise the negative consequences for all if non-payment continues. The municipality's ward committees are particularly charged with this responsibility.

8. NOTICE OF DEFAULT AND TERMINATION OR RESTRICTION OF SERVICES

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8.1 After due date or as soon as possible there after the Credit Control Section will start with the blocking of the pre-paid electricity and the restriction of water on all premises where the municipal account is in arrears. During this process a letter to this effect will be delivered at the relevant premises.

9. RECONNECTION OR REINSTATEMENT OF TERMINATED OR RESTRICTED SERVICES

9.1 Services to defaulting accountholders terminated or restricted in terms of this policy shall be reconnected or reinstated by the municipal manager only when all the following conditions have been met:

- i. the arrear account has been paid in full, including the interest raised on such account; or an acceptable arrangement has been made with the municipal manager for the payment of the arrear account, including the interest raised on such account;
- ii. the charge(s) for the notice sent in terms of this policy and for the reconnection or reinstatement of the terminated or restricted service(s), as determined by the council from time to time, have been paid in full;
- iii. a service contract has been entered into with the municipality, as contemplated in this policy; and
- iv. a cash deposit has been lodged with the municipal manager in compliance with this policy, such deposit to be newly determined on the basis of currently prevailing consumption and usage of services in respect of the property concerned or, if insufficient data is available with regard to such consumption, of the currently prevailing consumption and usage of services in respect of a comparable property.

9.2 In the case of consumers using prepaid meters, but who have fallen into arrears with the remainder of their obligations to the municipality, no prepaid purchases shall be accepted until the outstanding arrears have been settled or an acceptable arrangement made for the payment of the arrear account, as contemplated above: such arrangement may entail the limitation of the amount of prepaid services which may be purchased until the arrears or a stated percentage of the arrears has been settled.

10. PERIODS FOR RECONNECTIONS OR REINSTATEMENTS

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- 10.1 The municipal manager shall reconnect or reinstate terminated or restricted services within 3 (three) working days after the date on which the conditions set out in this policy have been met, unless the municipal manager is unable to do so because of circumstances beyond the control of the municipality.
- 10.2 In the latter event the municipal manager shall promptly inform the mayor of such circumstances and of any actions required to overcome the circumstances concerned.

11. ILLEGAL RECONNECTIONS

- 11.1 The municipal manager shall, as soon as it comes to the notice of the municipal manager that any terminated or restricted service has been irregularly reconnected or reinstated, report such action to the South African Police Service, disconnect or restrict such service(s), and not reconnect or reinstate such service(s) until the arrear account, including the interest raised on such account, the charges for the notice sent in terms of this policy and the charges for both the original and subsequent reconnection or reinstatement of the service(s) and the revised deposit have been paid in full, together with such penalty as may be determined by the council from time to time. In addition, all metered consumption since the date of the illegal reconnection, or the estimated consumption if a reliable meter reading is not possible, shall also be paid full before any reconnection or reinstatement is considered.

12. RESTRICTION OF SERVICES

- 12.1 If the municipal manager is of the opinion that the termination of services, in the case of a particular property in respect of which the account is in arrear, is not in the best interests of the community – specifically because of the potential endangerment of the life of any person, whether resident in or outside the property concerned – the municipal manager may appropriately restrict rather than terminate the services in question.

13. SERVICES NOT RECONNECTED OR REINSTATED AFTER FOUR WEEKS

- 13.1 If services have been terminated or restricted in the case of a property in respect of which the account is in arrear, and the accountholder has not paid such arrears, including the interest raised on such account, or made an acceptable arrangement with the municipal manager for the payment of the arrear account, including the interest raised on such account, within a period of 28 (twenty eight) calendar days after the date of termination

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or restriction of the service(s) concerned, the municipal manager shall forthwith hand such account over for collection and such further action as is deemed necessary to the municipality's attorneys or any debt collecting agency appointed by the council. Such further action shall include if necessary the sale in execution of such property to recover arrear property rates and service charges (if the accountholder is also the owner of the property). All legal expenses incurred by the municipality shall be for the account of the defaulting accountholder.

14. ARRANGEMENTS FOR PAYMENT OF ARREAR ACCOUNTS

- 14.1 Allowing defaulting accountholders to make arrangements for the payment of arrear accounts shall be at the discretion of the municipal manager.
- 14.2 Each defaulting accountholder shall be allowed a maximum period of 9 (nine) months within which to pay an arrear account, together with the interest raised on such account, and it shall be a condition for the conclusion of any arrangement that the accountholder is bound to pay every current municipal account in full and on time during the period over which such arrangement extends.
- 14.3 If an accountholder breaches any material term of an arrangement, the balance of the arrear account, together with the balance of interest raised on such account, shall immediately become due and payable to the municipality, and if the accountholder defaults on such payment, the municipal manager shall terminate or restrict services to the property in question and shall forthwith hand such account over for collection as envisaged in this policy.
- 14.4 An accountholder who has breached an arrangement as set out above shall not be allowed to make any further arrangements for the payment of arrear accounts, but shall be proceeded against, after the dispatch of the initial notice of default as envisaged in this policy and failure by the accountholder to pay the arrear account, together with interest raised on such arrears as required in terms of such notice, as though such accountholder had breached a material term of an arrangement.

15. SERVICE CONTRACT

- 15.1 A service contract shall henceforth be entered into with the municipality for each property to which the municipality is expected to provide all or any of the following services:

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- a) electricity
- b) water
- c) refuse collection
- d) sewerage.

- 15.2 Such contract shall set out the conditions on which services are provided and shall require the signatory to note the contents of the municipality's credit control and debt collection policy, a copy of which shall be provided to such signatory, as well as the provision of the Municipal Systems Act in regard to the municipality's right of access to property.
- 15.3 Where the signatory is not the owner of the property to which the services are to be provided, a properly executed letter from such owner indicating that the signatory is the lawful occupant of the property shall be attached to the service contract.
- 15.4 Current consumers and users of the municipality's services who have not entered in a service contract as envisaged above, must do so within 2 years from the date on which the by-laws to implement the present policy are published, and failure to do so shall be considered as a default equivalent to non-payment in terms of part 3 above.

16. PAYMENT OF DEPOSITS

- 16.1 Whenever a service contract is entered into in terms of this policy, the signatory shall lodge a cash deposit with the municipality, such deposit to be determined as follows:
- a) In the case of the signatory's being the registered owner or spouse of the registered owner of the property concerned, an amount equal to one month of the relevant service(s) provided to the property over the immediately preceding 12 (twelve) month period, or – where no such information is available – one quarter of the aggregate monetary value of the relevant service(s) provided to a comparable property over the immediately preceding 12 (twelve) month period;
 - b) In the case of the signatory's **not** being the registered owner or spouse of the registered owner of the property concerned, an amount equal to three months consumption must be paid.

17. ALLOCATION OF PART-PAYMENTS AND APPROPRIATION OF DEPOSITS

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- 17.1 If an accountholder pays only part of any municipal account due, the municipal manager shall allocate such payment as follows:
- a) firstly, to any unpaid charges levied by the municipality in respect of unacceptable cheques, notices, legal expenses and reconnections or reinstatements of services in respect of the account or property concerned
 - b) secondly, to any unpaid refuse charges;
 - c) thirdly, to any unpaid sewerage collection charges;
 - d) fourthly, to any unpaid water rates;
 - e) fifthly, to any unpaid electricity charges; and
 - f) lastly, to any unpaid rates charges.
- 17.2 This sequence of allocation shall be followed notwithstanding any instructions to the contrary given by the accountholder.
- 17.3 In the event of an accountholder's defaulting on the payment of an arrear account, as contemplated in this policy, the municipal manager shall forthwith appropriate as much of such deposit as is necessary to defray any costs incurred by the municipality and the arrear amount owing to the municipality in the same sequence that is applicable to the allocation of part payments, as contemplated above.

18. QUERIES BY ACCOUNTHOLDERS

- 18.1 In the event of an accountholder reasonably querying any item or items on the monthly municipal account, no action shall be taken against the accountholder as contemplated in this policy provided the accountholder has paid by due date an amount equal to the monthly average monetary value of the three most recent unqueried accounts in respect of the service under query, as well as all unqueried balances on such account, and provided further such query is made in writing by the accountholder or is recorded in writing by the municipal manager on behalf of the accountholder on or before the due date for the payment of the relevant account. Any query raised by an accountholder in the circumstances contemplated in the section below shall not constitute a reasonable query for the purposes of the present paragraph.

19. INABILITY TO READ METERS

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19.1 If the municipality is unable to read any meter on any property because the meter has been rendered inaccessible through any act or omission of the accountholder or owner of the property concerned, the municipal manager shall estimate the consumption of the service concerned by determining the monthly average of the metered consumption recorded on the three most recent accounts in respect of which meter readings were obtained, and thereafter bill the accountholder for the monetary value of such estimated consumption. It needs to be stressed that once a correct reading has been obtained, the correct levy will be debited and the previous levy will be reversed.

20. DISHONoured AND OTHER UNACCEPTABLE CHEQUES

20.1 If an accountholder tenders a cheque which is subsequently dishonoured by or is found to be unacceptable to the accountholder's bankers, the municipal manager shall – in addition to taking the steps contemplated in this policy against defaulting accountholders – charge such accountholder the penalty charge for unacceptable cheques, as determined by the council from time to time, and such charge shall rank equally with the costs and expenses incurred by the municipality for purposes of determining the sequence of allocations and appropriations contemplated in this policy.

21. DELEGATION OF RESPONSIBILITIES BY MUNICIPAL MANAGER

21.1 The municipal manager, including any person acting in such capacity, shall be responsible to the council for the implementation of this policy and its attendant by-laws but – without in so doing being divested of such responsibility – may delegate in writing all or any of the duties and responsibilities referred to in these by-laws to any other official or officials of the municipality, and may from time to time in writing amend or withdraw such delegation(s).

22. ROLE OF MUNICIPAL MANAGER

22.1 Section 100 of the Municipal Systems Act 2000 clearly assigns the legal responsibility for implementing the credit control and debt collection policies and by-laws to the municipal manager.

22.2 In practice, however, the municipal manager will inevitably delegate some or many of the responsibilities specifically assigned to this office in the by-laws, as it will be administratively impossible for the municipal manager to perform the numerous other functions of this office as well as attend to

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- frequently recurring administrative responsibilities. However, such delegation does not absolve the municipal manager from final accountability in this regard, and the municipal manager will therefore have to ensure that a proper internal reporting structure is established and consistently implemented so that the day-to-day actions of and results from the credit control and debt collection programme are properly monitored and supervised.
- 22.3 It is also an integral feature of the present policy that the municipal manager shall report monthly to the mayor, as the case may be, and quarterly to the council on the actions taken in terms of the by-laws, and on the payment levels for the periods concerned. Such reports shall, as soon as practicably possible, provide the required information both in aggregate and by municipal ward.
- 22.4 In addition, such monthly report shall indicate any administrative shortcomings, the measures taken or recommended to address such shortcomings, and any actions by councillors which could reasonably be interpreted as constituting interference in the application of the by-laws.
- 22.5 Notwithstanding all the foregoing references to the accountability of the municipal manager in regard to these by-laws, it is incumbent on all the officials of the municipality, certainly all those who are at management level, as well as more junior officials who are directly or indirectly involved with the community and the municipality's general customer relations, to promote and support both this credit control and debt collection policy and the application of the attendant by-laws.
- 22.6 The responsibilities of all officials include reporting to the municipal manager any evident breaches of these by-laws, whether by members of the community, other officials or councillors of the municipality.

23. ROLE OF COUNCILLORS

- 23.1 Section 99 of the Systems Act 2000 places the important legal responsibility on the executive mayor or executive committee, as the case may be, of monitoring and supervising the application of the present policy and the attendant by-laws, and of reporting to the council on the extent and success of credit control actions.
- 23.2 The present policy further recommends that the municipality's ward committees be actively involved in implementing the credit control and debt collection programme, and should therefore receive monthly reports on the status of the municipal manager's credit control actions. The ward

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committees must also actively promote the present policy, and ensure at the same time that the municipality's customer relations are of a standard acceptable to the community.

- 23.3 In order to maintain the credibility of the municipality in the implementation of the present policy and the attendant by-laws, it is essential that councillors should lead by example. Councillors, by adopting this policy, therefore pledge, not only their unqualified support for the policy, but their commitment to ensuring that their own accounts will at no stage fall into arrears.

24. INTEREST ON ARREARS AND OTHER PENALTY CHARGES

- 24.1 Interest shall be charged on all arrear accounts at the prevailing overdraft rate offered by the municipality's bankers plus 2 (two) percentage points.

- 24.2 If the municipality uses more than one banking institution it shall for purposes of determining the interest on arrear accounts apply the overdraft rate offered by the institution with which its primary bank account is placed.

- 24.3 Interest shall be calculated on a daily basis. For purposes of determining arrear amounts, all amounts unpaid including interest previously raised and penalty charges, but excluding value added tax, shall be taken into account.

- 24.4 In considering each annual budget the council shall review the adequacy of its interest charges, and shall determine the following for the financial year concerned:

- a) charges for disconnexion or restriction of services
- b) charges for reconnexion or reinstatement of services
- c) charges for notices of default
- d) penalty charges for illegal reconnections
- e) penalty charges for dishonoured cheques

25. INDIGENCY MANAGEMENT

- 25.1 In regard to the payments expected from registered indigents, and the credit control and debt collection actions contemplated in respect of such

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residents, this policy must be read in conjunction with the municipality's approved policy on indigency management.

26. UNCOLLECTABLE ARREARS

- 26.1 The effective implementation of the present policy also implies a realistic review of the municipality's debtors book at the conclusion of each financial year. The municipal manager shall as soon as possible after 30 June each year present to the council a report indicating the amount of the arrears which it is believed is uncollectable, together with the reasons for this conclusion.
- 26.2 The council shall then approve the write off of such arrears, if it is satisfied with the reasons provided.

27. ARREARS WHICH HAVE ARISEN PRIOR TO THE ADOPTION OF THE PRESENT POLICY

- 27.1 The council shall separately consider arrears which arose prior to the adoption of the present policy, and shall advise accountholders of their respective obligations in regard to such arrears. In determining such obligations, the council shall have regard to the quantum of such arrears, to the period over which the default occurred, and to whether the accountholder concerned has registered as an indigent in terms of the municipality's policy on indigency management.

28. BY-LAWS TO BE ADOPTED

- 28.1 By-laws shall be adopted to give effect to the council's credit control and debt collection policy.
- 28.2 These by-laws deal severely with defaulters, and their application requires a considerable degree of commitment from the municipal manager and his or her administration, as well as from the municipality's political structures. For these by-laws to ensure the avoidance of financial misfortunes for the municipality, and to lead to sustained financial stability, their application will have to receive the constant attention of all the municipality's key role-players and decision makers. If these by-laws are not constantly and consistently applied, from month to month and from year to year, the municipality's political and administrative credibility will be severely impaired, and it may not be able to avert financial collapse in the long run.

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- 28.3 Although these by-laws envisage even the termination of basic services for defaulting accountholders this will not in itself – no matter how harsh it may seem to those councillors and officials who are disposed to greater leniency – prevent the accumulation of arrears. The monthly billing for property rates, sewerage charges and refuse removal fees will continue in respect of defaulting accountholders, even though their consumption of electricity and water may have been terminated or restricted. The termination or restriction of services must therefore be seen merely as a vital first step in the credit control programme, and the commitment by the municipality to follow up such actions with the full force of the law at the municipality's disposal is an essential further step if the accumulation of debts is to be meaningfully curtailed.
- 28.4 The by-laws comply with the requirements of the Municipal Systems Act 2000, the Water Services Act 1997 and the Municipal Finance Management Act 2003.
- 28.5 The by-laws also deal with the determination and payment of consumer deposits, and in accordance with part 11 of the present policy effectively differentiate in this respect between accountholders who are both the owners and occupiers of the fixed property concerned, on the one hand, and accountholders who are tenants of such properties, on the other. This differentiation is essential if the municipality wishes to protect its interests in so far as tenants are concerned, but – in any event – it is not believed that a degree of differentiation imposes an unreasonable financial burden on such tenants (effectively the deposit required from owners/occupiers represents three months average consumption whereas the deposit in the case of tenants represents four months consumption).
- 28.6 It is not proposed that accountholders who have currently not lodged deposits should be required to do so forthwith, but only within a two-year period, but that accountholders who default at any future date should be immediately obliged both to sign proper service contracts and to lodge the deposits required in terms of both such contract and the by-laws.