

RESOLUTION NO 9 OF 2003

**DISESTABLISHMENT OF DEPARTMENTAL AND
PROVINCIAL BARGAINING COUNCILS, ESTABLISHMENT OF
PROVINCIAL CO-ORDINATING CHAMBERS OF THE PSCBC
AND GUIDELINES ON ESTABLISHMENT OF CHAMBERS OF
SECTORAL BARGAINING COUNCILS**

1. Noting that the PSCBC in terms of Section 37(1)(b) of the *Labour Relations Act*, 1995, has the power to disestablish bargaining councils in the public service in accordance with its constitution and by resolution of Council.
2. Therefore, the Council resolves that –
 - (a) all provincial and departmental bargaining councils in the public service be disestablished;
 - (b) provincial co-ordinating chambers of the PSCBC be established as per Annexure A; and
 - (c) the guidelines on the establishment of chambers of sectoral bargaining councils as per Annexure B, be adopted and forwarded to sectoral bargaining councils.

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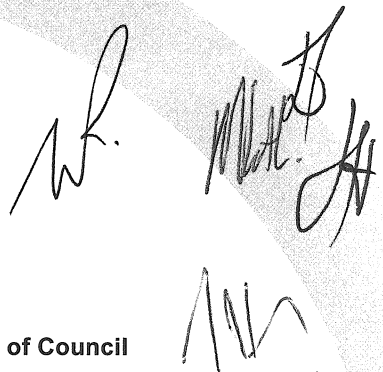
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3. This agreement binds:
 - (a) the employer;
 - (b) the employees of the employer who are members of the trade union parties to this agreement; and
 - (c) the employees of the employer who are not members of any trade union party to this agreement, but who fall within the registered scope of Council.
4. This agreement shall come into effect –
 - (a) for a specific sector (where applicable), in respect of the councils referred to in paragraph 2(a), on the date on which the relevant sectoral bargaining council resolves to establish chambers within its area of jurisdiction.
 - (b) in respect of paragraphs 2(b) and 2(c), on the date of signing of the agreement;
5. If there is a dispute about the interpretation or application of this agreement any party may refer the matter to the Council for resolution in terms of the dispute resolution procedure of the Council.
6. The Council will monitor the implementation of this agreement.

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THIS DONE AND SIGNED AT PRETORIA OF THIS 4th DAY
OF December 2003.

ON BEHALF OF THE EMPLOYER PARTY

	Name	Signature
State as Employer	KENNY GOVENDER	<i>K Govender</i>

ON BEHALF OF TRADE UNION PARTIES

Trade Union	Name	Signature
DENOSA		
HOSPERSA/ NUPSAW	M. Rothballer	<i>M Rothballer</i>
NAPTOSA	H. Hendricks	<i>H Hendricks</i>
NEHAWU		
POPCRU		
PSA	HIN DE CLERCK	<i>H de Clerck</i>
SADTU	Edwin M. Pillay	<i>Edwin M Pillay</i>
SAPU		

ANNEXURE A

ESTABLISHMENT OF PROVINCIAL CO-ORDINATING CHAMBERS OF THE PSCBC

1. DEFINITIONS

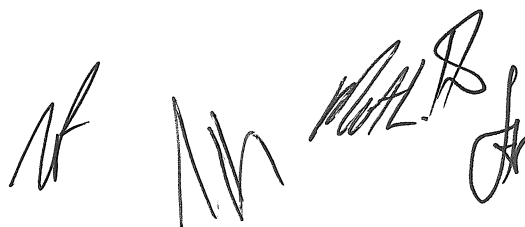
- 1.1. Unless the context indicates otherwise,
 - 1.1.1. 'Chamber' means the Co-ordinating Chamber of a given provincial administration, established in terms of this Resolution;
 - 1.1.2. 'collective agreement', means a collective agreement referred to in clause 11.4;
 - 1.1.3. 'secretary' means secretary of the relevant Chamber elected in terms of clause 8.1 or utilised in terms of the provisions of clause 8.2;
 - 1.1.4. 'sectoral structure at provincial level' means a provincial chamber or similar structure established for a given province in terms of the constitution of the relevant Sectoral Council.
- 1.2. Any other expression used in this resolution that is defined in the Council's Constitution shall have the same meaning as in the Constitution.

2. ESTABLISHMENT OF CHAMBERS

- 2.1 A Chamber for every provincial administration is hereby established by the Council in terms of clause 18.9 of its constitution.
- 2.2 A Chamber referred to in clause 2.1 shall be called 'the Co-ordinating Chamber of the Public Service Co-ordinating Bargaining Council for the Province of X', where 'X' shall be the name of the province concerned.
- 2.3 A Chamber shall not be a juristic person.
- 2.4 A Chamber may be disestablished by resolution of Council.

3. JURISDICTION

- 3.1 A Chamber established in terms of clause 2.1 above shall function in the provincial administration for which it has been established.
- 3.2 Its jurisdiction shall be limited to issues of a transverse nature in the provincial administration, and thus –
 - 3.2.1 those that affect only the provincial administration concerned, or which need special or specific attention in the provincial administration; *and*
 - 3.2.2 those that affect more than one sector, as designated by the Council, in the provincial administration,



provided it falls within the competencies of the executing authorities in the provincial administration.

4. POWERS AND FUNCTIONS

The powers and functions of the Chamber shall be to -

- 4.1 enhance labour peace and to prevent labour disputes in the provincial administration concerned;
- 4.2 negotiate collective agreements within its area of jurisdiction and conclude such agreements, subject to clause 5.3;
- 4.3 supervise and enforce collective agreements concluded in the Chamber;
- 4.4 co-ordinate, facilitate and monitor the implementation of national agreements at provincial level,
- 4.5 co-ordinate sectoral structures at a provincial level;
- 4.6 exercise any other power or perform any other function that may be necessary or desirable to achieve the objectives of the Chamber, as agreed to by the Council;
- 4.7 deal with matters referred to or delegated to it by the Council.

5. RESPONSIBILITIES TOWARDS COUNCIL

Every Chamber –

- 5.1 shall deal with matters within its area of jurisdiction or referred to or delegated to it by the Council;
- 5.2 shall submit a copy of the approved minutes of every meeting of the Chamber, duly signed by the person who presided at such meeting together with Secretary of the meeting, to the Secretary of the Council;
- 5.3 A chamber shall report any decision or collective agreement to the Council within 30 days of being taken or concluded for purposes of ratification by Council in terms of clause 12.
- 5.4 shall report to the Council as and when required by Council;
- 5.5 may submit proposals on issues affecting labour relations in the provincial administration for submission to the Council.

6. ADMISSION TO CHAMBER

- 6.1 Trade Union parties in the PSCBC will be admitted to a Chamber.



7. COMPOSITION OF CHAMBER

- 7.1 The Chamber for a provincial administration shall, unless otherwise agreed to by the parties to the Chamber, consist of-
- 7.1.1 one representative per trade union party admitted to the Chamber;
 - 7.1.2 an equal number of representatives of the employer in the provincial administration.
- 7.2 The parties must endeavour to ensure that, through the nomination of their representatives in terms of clause 7.1, the sectoral structures in the provincial administration are fully represented.
- 7.3 A trade union or the employer may appoint an alternate for each representative nominated in terms of clause 7.1, which alternate shall represent that trade union or employer concerned when he/she substitutes for the representative.

8. THE SECRETARY OF THE CHAMBER

- 8.1 Subject to clause 8.2, the Chamber shall, at the first meeting, and thereafter annually or when a vacancy arises, appoint a secretary of the chamber on such conditions as determined by the council
- 8.2 The Chamber can enter into an arrangement with the Chamber of any sectoral council at provincial level to share the services of a secretariat.
- 8.3 The secretary shall:
- 8.3.1 conduct all correspondence of the Chamber, unless the Chamber requires another person to do so;
 - 8.3.2 keep originals of letters received and copies of those despatched;
 - 8.3.3 attend the meetings of the Chamber and record the minutes of the meetings or, if he/she is not available, designate another person to do so;
 - 8.3.4 ensure that all collective agreements concluded in the Chamber are reduced to writing, signed by all parties that support it within 21 working days of reaching agreement and, if a given agreement constitutes a collective agreement, circulate it to all parties within 5 working days of signing of the agreement;
 - 8.3.5 ensure that any decision or collective agreement of the Chamber is reported to Council as required by clause 5.3;
 - 8.3.6 keep books of account in accordance with general accepted accounting practices and the instructions of the Chamber;
 - 8.3.7 bank all monies received on behalf of the Chamber within 3 working days upon receipt thereof;



- 8.3.8 submit statements of the financial position of the Chamber to the Chamber or to the Council whenever required to do so by the Chamber or by the Council;
- 8.3.9 submit the books of account of the Chamber to a auditor once every calendar year for auditing if any moneys were received or expended in that calendar year, or have those books of account audited together with the books of account of the Council, if the Secretary of the Council agrees thereto;
- 8.3.10 fulfil any other functions assigned to the secretary in this resolution, or by the Chamber;
- 8.3.11 keep in safe custody –
 - (a) the approved minutes of every meeting of the Chamber, duly signed by him/her and by the person who presided at such meeting;
 - (b) the original signed agreements of the Chamber; and
 - (c) the statements referred to in clause 8.3.8 and all records in relation thereto.

9. THE CHAIRPERSON OF THE CHAMBER

- 9.1 The representatives of parties admitted to the Chamber shall elect a chairperson and two vice-chairpersons from among the representatives of the parties present. The chairperson and, in his or her absence, one of the vice-chairpersons shall preside at Chamber meetings. The Chairperson and vice-chairpersons shall serve for a period of 12 months from the date of their election, unless any of them resign or is removed by a decision of the Council. Where such a position is vacated before the term has expired the parties shall elect another chairperson or vice-chairperson (as the case may be) for the remainder of the term.
- 9.2 In the election of the chairperson, the person receiving the highest percentage of the total votes, shall be the duly elected chairperson.
- 9.3 One of the vice-chairpersons shall be elected by the employer and the other by the admitted trade unions.
- 9.4 Should an equal number of votes be cast for two or more candidates for the position of chairperson, the secretary of the chamber shall, in the presence of the meeting, write the name of each candidate on a separate piece of paper and place such papers in a suitable container and shall draw one of the papers from the container. The candidate whose name is drawn shall be deemed to have been duly elected.
- 9.5 Whenever the chairperson or the two vice-chairpersons are absent or unable to act at a meeting, the representatives present shall elect among themselves someone to act as chairperson at that meeting.



- 9.6 The Council will provide the services of a chairperson to the Chamber for purposes of its first meeting.

10. MEETINGS

- 10.1 A Chamber meets as and when needed, but must meet at least 4 times per annum.
- 10.2 Subject to clause 10.4 (read with the necessary changes), the first meeting of a Chamber or, if no secretary has been elected or where the position of secretary of the Chamber is vacant, any further meeting, is called by the Secretary of the Council.
- 10.3 Any other meeting of the Chamber is called by the secretary of the Chamber.
- 10.4 A meeting of the Chamber shall be called on request of any party to the Chamber, or of any of the sectoral structures in that province.
- 10.5 The date, time and place of the meeting of the Chamber shall be determined by the Secretary of the Council or the secretary (as the case may be), taking into consideration any input received from any party to the Council or any sectoral structure in that province.

11. VOTING RIGHTS

- 11.1 The vote weight of a trade union in the Chamber shall be determined on the basis of its actual membership within the area of jurisdiction of that Chamber (as reflected by PERSAL figures) in proportion to the membership of all the trade unions admitted to the Chamber.
- 11.2 The employer has an equal number of votes to that of the trade unions admitted to the Chamber, collectively.
- 11.3 The determination of the vote weight of a trade union to a Chamber must be linked to the processes of the Council in respect of the review of trade union membership of the Council.

12. DECISIONS/RESOLUTIONS OF COUNCIL

- 12.1 A decision of the Chamber requires the vote of the employer together with a majority of votes of the trade unions admitted to the Chamber and a collective agreement requires the signature of the employer and a number of admitted trade unions who represent the majority of votes on the side of labour in the Chamber.
- 12.2 Subject to clause 12.4, any decision or resolution of the Chamber referred to in clause 5.3 shall not take effect for a period of 30 days after receipt of the notification by Council.
- 12.3 During the period contemplated in clause 12.2, the Council must satisfy itself that the decision or collective agreement of the Chamber –
- (a) falls within the jurisdiction of the Chamber : and
 - (b) is not in conflict with any decision or collective agreement of the Council.



12.4 Should it be found that a decision or collective agreement of the Chamber does not meet the criteria referred to in clause 12.3, the Council may set aside or vary such decision or collective agreement.

12.5 For purposes of clause 12.3, a committee comprising the secretary of Council and a panellist from the panel of conciliators and arbitrators appointed in terms of clause 15.9 (c) of the constitution, will consider any decision or collective agreement of a Chamber and notify Council of its finding.

13. QUORUM

13.1 The provisions in respect of quorums in the Constitution of the Council apply, with the necessary changes required, to a Chamber.

14. DISPUTE RESOLUTION

14.1 If a dispute arises during the negotiation process in a Chamber that cannot be settled, any party may refer the matter for conciliation in terms of the Dispute Resolution Procedures of the Council.

14.2 If the matter is not resolved during the conciliation process, parties to the Council may exercise their rights in terms of the *Labour Relations Act*, 1995.

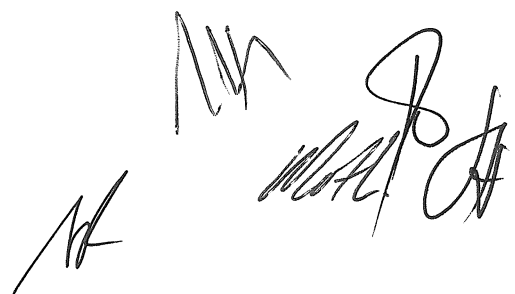
14.3 If there is a dispute about the interpretation or application of a collective agreement of a Chamber or a dispute about the interpretation or application of this agreement, any party may refer the dispute to the Council in terms of the Dispute Resolution Procedures of Council.

15. GENERAL

15.1 The provisions of the Constitution of the Council with regard to the admission of trade unions, the change to the position of admitted trade unions and the termination of membership of trade unions to the Council must be accommodated in a Chamber in as far as it has an influence on the Chamber.

16. TRANSITIONAL ARRANGEMENTS

16.1 Any collective agreement of a transversal nature concluded in an existing provincial bargaining council or similar forum will remain in force until such time that it is repealed or amended by the chamber.

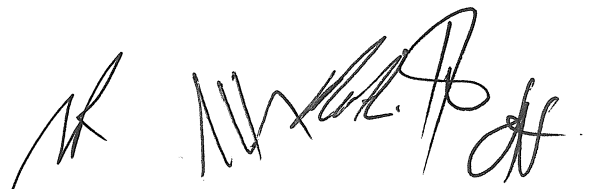
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ANNEXURE B

GUIDELINES ON THE ESTABLISHMENT OF CHAMBERS OF SECTORAL BARGAINING COUNCILS

1. It is recommended by Council that Sectoral Bargaining Councils follow the guidelines below in the establishment of chambers in their sectors:
 - (a) Institutions for the establishment of chambers:
 - (i) A provincial chamber should be established for the department (s) in a provincial administration that fall within the scope of a particular Sectoral bargaining council.
 - (ii) A departmental chamber should be established for a national department or organisational component as defined in the Public Service Act, 1994.
 - (b) Jurisdiction of a chambers
 - (i) A chamber's jurisdiction should be limited to issues upon which–
 - (aa) in the case of a provincial chamber, the premier or the relevant executing authorities at provincial level may make a decision that binds the employer , and
 - (bb) in the case of a national departmental chamber, the executing authority or head of the department may make a decision that binds the employer;

provided that the issue is not of a transverse nature, therefore affecting the relevant sector or two or more sectors as designated by the PSCBC.
 - (c) Powers and functions of a chamber.
 - (i) The powers and functions of a chamber should be to:
 - (aa) enhance labour peace and to prevent labour disputes;
 - (bb) negotiate collective agreements within its area of jurisdiction and conclude such agreements;
 - (cc) supervise and enforce collective agreements concluded in the chamber;
 - (dd) co-ordinate, facilitate and monitor the implementation of national and sectoral agreements;

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(ee) exercise any other power or perform any other function that may be necessary or desirable to achieve the objectives of the Chamber, as agreed to by the Council;

(ff) deal with matters referred to or delegated to it by the Council.

(d) Structure and functioning of chamber

A sectoral bargaining council should determine how chambers within its ambit of jurisdiction should be structured and how it should function.

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