



SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL

HEAD OFFICE

Private Bag
X12 WESTVILLE
3630

Tel: (031) 267-2227/1598/2388
Fax: (031) 267-0929

Westville Civic Centre
William Lester Drive
WESTVILLE
3630

E-mail: info@salgbc.org.za
Web-site: www.salgbc.org.za

6 May 2005

Municipal Managers

Parties:	SALGA	Mr R Nolutshungu	(012) 338-6747
	SAMWU	Mr D Forbes	(021) 696-9175
	IMATU	Mr J Koen	(012) 460-8444

The Regional Secretaries:

Gauteng Division	Mr E Shelembe	(011) 333-8091
Eastern Cape Division	Ms S Walter	(041) 585-0646
KwaZulu-Natal Division	Mr A Singh	(031) 267-0930
Western Cape Division	Mr O Wilson	(021) 930-9244
Northern Cape/Free State Division North	Mr M Faas	(053) 831-3608
West/Mpumalanga/Umpopo Division	Mr E Shelembe	(012) 320-4136

Dear Sir/Madam

CIRCULAR NO.: 01/2005

ORGANISATIONAL RIGHTS AGREEMENT

The parties to the SALGBC (IMATU, SAMWU and SALGA) have resolved the organisational rights dispute. A new agreement has been signed, which comes into effect immediately.

This agreement is binding, in terms of Section 23 of the Labour Relations Act, on all members of IMATU, SAMWU and SALGA (all municipalities).

Other minority trade unions (such as the Municipal Employees Union) are not parties to this Organisational Rights agreement and are not entitled to any organisational rights until such time that these minority trade unions meet the threshold requirements as is set out and is required by the SALGBC Constitution. The threshold requirement as is set out in the constitution is 15% of the total number of employees within the scope of the council

In practice this means that trade unions that do not meet the threshold requirements of the SALGBC constitution are not entitled to enter any municipality's premises to recruit members or communicate with members, they may not hold meetings on the premises of a municipality. These minority unions are not entitled to shop stewards or to have time off for their office bearers to attend to trade union activities. In municipalities where organisational rights are currently being given to minority trade unions (which is all trade unions except for IMATU and

Address correspondence to the General Secretary

SCHEDULE

THE SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL

(hereinafter referred to as "the "Council")

ORGANISATIONAL RIGHTS COLLECTIVE AGREEMENT

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")

1. **SCOPE OF APPLICATION OF AGREEMENT**

1.1 The terms of this Agreement shall be observed in the Local Government Undertaking in the Republic of South Africa by all employers and by all employees who fall within the registered scope of the Council.

1.2 The agreement binds the employers that at date of signature of this agreement are members of *SALGA*.

2. **PERIOD OF OPERATION**

2.1 The Agreement shall come into operation in respect of the parties to the Agreement, on 26 April 2005 and shall terminate on 30 June 2010;

2.2 The Agreement shall come into operation in respect of non-employer parties, on the date to be determined by the Minister of Labour and shall terminate on 30 June 2010.

3 **PURPOSE AND OBJECTIVES**

3.1 The purpose of this agreement is to provide for and regulate organisational rights for trade unions in the local government sector.

3.2 The parties enter into this agreement in order to promote the following objectives:

3.2.1 to create an environment conducive to the establishment of sound industrial relations in the local government sector in South Africa;

3.2.2 to encourage orderly collective bargaining in the *SALGBC*;

3.2.3 to encourage greater levels of worker participation in the workplaces within the local government sector;

3.2.4 to encourage the parties to seek reasonable and satisfactory solutions to disputes that may arise between them;

4.1.12 *SALGBC* means the South African Local Government Bargaining Council;

4.1.13 *Shop steward* means a trade union representative as defined in the Act;

4.1.14 *Shop stewards' committee* means all the shop stewards of either *SAMWU* or *IMATU* at a *workplace*;

4.1.15 *Trade union* means either *IMATU* or *SAMWU* and *trade unions* means *IMATU* and or *SAMWU*;

4.1.16 "*Workplace*" means an *employer*, and

4.1.17 *Year* means the period 1 January to 31 December unless indicated otherwise by the context.

4.2 Unless the contrary intention is stated or it is obvious from the context words or expressions defined in the *Act* that are used in this agreement will have the same meaning as in the *Act*.

5. **THRESHOLD OF REPRESENTATIVENESS**

5.1 The parties to the *SALGBC* establish, in respect of the rights referred to in sections 12, 13 and 15 of the *Act*, a threshold of representativeness equivalent to the membership percentage established in clause 4.2.2 of the Constitution of the *SALGBC*.

5.2 This threshold of representativeness will be applied equally to any registered trade union seeking any of *the* organisational rights referred to *in* sections 12, 13 and 15 of the *Act*.

5.3 Any registered trade union with fewer members than the threshold of representativeness set out in clause 5.1 above will not qualify for any rights set out in sections 12, 13 and 15 of the *Act*.

- 7.6.1 the names of members and the deduction of subscriptions and/or levies made from such members' wages;
- 7.6.2 listing employees who have joined the union, members who have left the employ of the *employer* for any reason, or have resigned from the union;
- 7.6.3 stating the aggregate amount collected and the date of deposit.

Should any *employer* be unable to provide the information electronically, it shall apply for an exemption to the relevant division of the SALGBC to transfer the information in hard copy format. A decision by the Division shall be final and binding.

Subject to Annexure A, an *employer* shall make deductions from the *trade union's* members' salary or wages in respect of any *trade union* initiated scheme of the *trade union* and make payment to the relevant party or its nominee in terms of the scheme.

8. Shop Stewards

8.1 SAMWU and IMA TV shall be entitled to have shop stewards, who shall be entitled to perform their duties as set out in section 14 (4) of the *Act* or any *additional* functions as may be contained herein or agreed by the *parties* from time to time.

8.2 Employees Not Entitled to Become Shop Stewards

8.2.1 The following employees are not entitled to become shop stewards:

- 8.2.1.1. the Municipal Manager, Deputy Municipal Manager, Executive Director, Director, Deputy Director, Head of Department, Deputy Head of Department or such post as determined by the relevant division of the SALGBC;

8.4.1.5. Operational requirements.

8.4.2 The *trade union* concerned shall notify the employer concerned that it wishes to exercise its rights to define constituencies as set out in this agreement.

8.4.3 On receipt of such notification the employer shall convene a meeting with the *trade union* concerned within fifteen (15) days and reach agreement on the number of constituencies and *shop stewards* to be allocated.

8.4.4 The Parties shall reach an agreement on the delimitation and demarcation of constituencies within 30 (thirty) days of receipt of notification, failing which any party may refer the matter as a dispute to the relevant division of the SALGBC for resolution.

8.5 **Election of *Shop Stewards***

8.5.1 Once agreement has been reached on the delimitation and demarcation of constituencies the *trade union* concerned shall be given access to the *employer's* premises to conduct *shop steward* elections.

8.5.2 Such access shall allow the *trade union* 3 (three) hours during working time, per constituency, to explain the role and duties of *shop stewards*, to receive nominations and to conduct elections.

The 3 (three) hours need not be continuous but shall be held prior to lunch breaks or knocking-off time.

8.5.3 The *trade union* concerned shall inform the employer 7 (seven) days in advance, in writing, of the proposed venue, date and time of the election meetings.

8.5.4 the term of office of *shop stewards* will be in accordance with the constitution of the relevant *trade union*.

8.6 **Shop Stewards' Obligations**

8.6.1 *Shop stewards* shall do everything reasonably necessary to ensure adherence to agreements, procedures, terms and conditions of employment, regulations and safety rules applicable to the employer.

8.6.2 Should a *shop steward* (other than a full-time *shop steward*) be required to leave his or her workplace in order to carry out any duties as a shop steward, the *shop steward shall* first obtain the permission of his or her superior/supervisor, which permission shall not be unreasonably withheld.

8.6.3 Except as otherwise provided for in this agreement, or any other agreement between the parties, the *shop stewards* will be subject to the same rules, regulations and other conditions of employment as other employees of the *employer*.

8.7 **Meetings and Facilities**

8.7.1 The *shop stewards* shall be" entitled to meet with members in their respective constituencies for a period of 2 (two) hours per month.

8.7.2 The *shop stewards' committee* shall be entitled to hold four (4) general meetings with members per year. Any such meeting shall be held during working hours for not more than 2 (two) hours during working, time on a date to be approved by the *employer*, which approval shall not be unreasonably withheld.

The meeting shall take place either before lunch break or knockoff time. The *shop stewards committee* may request additional meetings/time and such request shall not be unreasonably refused.

8.7.3 A *shop stewards committee* shall be entitled to meet for a period, not *exceeding* 2 (two) hours per month during working time.

entitled to one full-time *shop steward*, provided that for every additional 1000 (one thousand) members such *trade union* shall be entitled to one additional full-time *shop steward* and that each *trade union* is entitled to a maximum of 6 (six) full-time *shop stewards* at anyone *workplace*; or

9.2.2

Where a *workplace* falls within the geographical boundary of a *District Council*, the total membership of the *trade union* concerned will be accumulated and full-time *shop stewards* shall *mutatis mutandis* be allocated based on the total membership, provided that the membership of those *workplaces* that qualify for full-time *shop stewards* in terms of clause 9.2.1 above shall be excluded from the total;

9.2.3

Should the total membership of *the trade union* concerned referred to in clause 9.2.1 above be less than 1 000 (one thousand) members, the relevant division of the SALGBC may decide on other boundaries within its areas of jurisdiction to determine' the number of full-time *shop stewards* for that particular area.

9.3

The total remuneration package of the full-time *shop steward* elected in terms of clauses 9.2.2 and 9.2.3 shall be shared proportionally by those *workplaces* within the boundaries as determined in the relevant clause.

9.4

Constituency

The constituency of a full-time *shop steward* shall be the *workplace* where he or she is employed except for those full-time *shop stewards* appointed in terms of clause 9.2.2 where it shall be the *workplaces* that *fall* within the boundaries as determined.

notice, failing which the employer shall thereafter suspend the right to a full-time *shop steward*

9.5.6

Should a *trade union's* membership reach 1000 (one thousand) or an additional 1000 (one thousand) as contemplated in clause 9.2.1, then the relevant *trade union* may give 60 (sixty) days' notice to the employer that it wishes to exercise its rights to a full-time *shop steward* or an additional full-time *shop steward* as the case may be

9.5.7 Whenever a full-time *shop steward* ceases to hold office, a by-election shall be held to replace him or her.

9.6 **Duties and Obligations**

9.6.1 Full-time *shop stewards* shall represent the interests of their *trade union* and its members. This may entail improving employer/employee relations by building trust between employees and management.

9.6.2 A full-time *shop steward* shall be subject to the applicable conditions of service, rules and regulations of the *employer* where he or she is employed.

9.6.3 The execution of the duties linked to the position of the full-time *shop steward* will be performed in accordance with the existing procedures and practices of the *employer*.

9.6.4 The *trade unions* accept that a full-time *shop steward* shall:

9.6.4.1 be considered the same as any other employee in respect of the application of conditions of service;

9.6.4.2 be bound by his or her terms and conditions of service and. by the policies, rules and regulations prevailing from time to time in her employer and constituency; and

9.7.6 All applications for leave will be dealt with in accordance with the applicable conditions of service and will be authorised by the relevant *trade union* subject to the provision that the person designated in terms of clause 9.9.1 is duly informed.

9.8 Access and Facilities

9.8.1 An office and furniture' shall be made available, on request, to the full-time *shop stewards* for the purpose of interviewing members, meeting *shop stewards* and for storing documents.

9.8.2 The full-time *shop steward* shall also be provided, on request, with reasonable telephone, fax, filing and copying facilities, provided that *the* cost shall be borne by the parties on the basis of a jointly agreed upon budget. Thereafter any excess amount shall be borne by the *trade union* concerned.

9.9 Reporting and Accountability

9.9.1 Full-time *shop stewards* must report to a designated member of the employer for administrative purposes.

9.9.2 The full-time *shop steward* shall report and be accountable to the *trade union* structures or members in accordance with the Respective constitutions and policies of the *trade unions*.

9.9.3 Each *trade union* shall be accountable for the satisfactory performance of its full-time *shop stewards* and shall ensure that they carry out their duties efficiently and effectively.

9.9.4 Each full-time *shop steward* shall accept the conditions of this agreement by signing the attached declaration (Annexure as").

9.9.5 Full-time *shop stewards* may form part of the consultation and negotiation structures of local labour Forums, including serving on the SALGSC and its Divisions and their committees and working groups.

10.8 The figure of R200, 000.00 (two hundred thousand rand) referred to in clause 10.2 shall be renegotiated in the SALGBC each year.

10.9 Provincial (*SAMWU*) or Regional (*IMA TV*) *Office Bearers* shall be entitled to 15 (fifteen) additional days on full pay.

10.10 Branch (*SAMWU*) or sub-region (*IMATU*) *Office Bearers* as set out in Annexures "C1" and "C2", shall be entitled to an additional 10 (ten) days on full pay.

REPRESENTATION ON STATUTORY AND OTHER BODIES

Shop stewards, office bearers and trade union members who participate in any of the following bodies and their structures shall be deemed to be on duty:

1.1.1 South African Local Government Bargaining Council;

11.2 a statutory board or council, accredited medical scheme or retirement fund;

11.3 the Local Government' Sector Education and Training Authority or its successor in title; and

11.4 the National Economic Development and Labour Council (NED LAC).

12. LOCAL LABOUR FORUM

12.1 Composition

12.1.1 At every employer a Local Labour Forum shall be established with equal representation from the *trade unions* and the employer.

The *trade unions'* representation shall be divided in proportion to their respective membership in that employer.

12.1.3 Employer representatives shall consist of councillors and of Management (as set out in clause 8.2.1.1) provided that councillors make up no less than one third of the delegation.

12.2.1.3. provided that it may not negotiate on any matter, which has been reserved for exclusive bargaining in the *SALGBC* or the divisions.

12.2.2

Disputes over what is negotiable, what are matters are for consultation and over whether a .specific process constitutes sufficient consultation are to be resolved through the dispute resolution mechanism of the *SALGBC*.

12.3 **Meetings of local Labour Fora**

12.3.1 The position of chairperson and vice-chairperson of the meeting shall rotate annually between the parties.

12.3.2 The chairperson and vice-chairperson shall be elected at the first meeting of the year.

12.3.3 The *parties* shall have a delegation leader who shall ensure order within his or her delegation. .

12.3.4 Local Labour Fora shall meet at least once a month unless by mutual agreement of the *parties* it is agreed not to meet.

12.3.5 The agenda for any ordinary meeting shall be jointly compiled through consultation with all parties 7 (seven) days prior to the ordinary meeting date provided that new items may be raised in any meeting under adoption of agenda if they are of an urgent nature.

12.3.6 Any *party* for reasons of urgency may call special meetings of the Local Labour Fora on 48 hours notice.

- 12.6 The number and nature of sub-committees shall be reported to the relevant division of the *SALGBC* on a quarterly basis.
- 12.7 The locus of the negotiation of agreements and legally required consultation on all matters is the Local Labour Forum and it may not divest or delegate such power to a sub-committee.

3. GENERAL

- 13.1 This agreement constitutes the whole agreement between the *parties* relating to the subject matter contained herein.
- 13.2 No amendment of this agreement or any provision or term thereof or any agreement, or other document issued or executed" in terms of this agreement and no settlement of any disputes arising under this agreement and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of this agreement shall be binding unless recorded in a written document signed by the *parties*. Any such extension, waiver or relaxation or suspension which is so given or made shall be construed as relating to the matter in respect whereof it was made or given.
- 13.3 No extension of time or waiver or relaxation of any of the provisions or terms of this agreement or any agreement or other document issued or executed pursuant to or in terms of this agreement, shall prevent any *party* from exercising its rights in accordance with this agreement.
- 13.4 No *party* shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the agreement and/or whether it was negligent or not.

14.7 The arbitrator shall

14.7.1 endeavour to conciliate the dispute unless the parties to the dispute advise the arbitrator that the dispute has been properly conciliated;
and

14.7.2 if the dispute remains unresolved, resolve the dispute through arbitration.

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

15. EXEMPTIONS

15.1 Any person bound by this Agreement shall be entitled to apply for' exemption from this Agreement.

15.2 All applications for exemption from any provision of this agreement shall be in writing and lodged with the General Secretary. Such application shall contain:

15.2.1 all material details of the Applicant;

15.2.2 the exact collective agreement or provision of a collective agreement from which the Applicant seeks exemption;

15.2.3 detailed grounds on which such exemption is sought taking into consideration the criteria specified in sub clause 15.7 hereunder;

15.3 The Executive Committee shall consider all applications from a party/nonparty to this Agreement (which shall include the members of such party), and may, subject to sub-clause 15.7, *and* on giving 'its reasons therefore, grant exemption on any conditions and for any period it considers appropriate.

15.4 A party aggrieved by a decision of the Executive Committee may appeal to the Council who shall consider the application subject to sub-clause 15.7 and on giving its reasons therefore, may grant an exemption on any

1998, Skills Development Levies Act 9 of 1999, or Unemployment Insurance Act 63 of 2001; or

- 15.7.9 any other *factor* which is considered appropriate.
- 15.8. Having made a decision to grant or refuse an exemption application, the Independent Exemptions Body shall advise the applicants and the Council within 14 days of its decision, giving full reasons. The decision of the Independent Exemptions body shall be final.
- 15.9 The Council shall issue to every person granted an exemption in terms of this clause a certificate of exemption setting out:
- 15.9.1 the Applicant's name;
 - 15.9.2 the provisions of the agreement *from* which exemption has been granted;
 - 15.9.3 the conditions relating to the exemption; and
 - 15.9.4 the period *for* which the exemption
- 15.10 The Council may withdraw a certificate of exemption granted to a party to this agreement by giving one month's notice to the party concerned, or may, in the case of a non-party, apply to the Independent Exemptions Body *for* the withdrawal of a certificate granted.
- 15.11 The Independent Exemptions Body shall be constituted on an ad hoc basis and shall be appointed by the SALGBC from its panel of arbitrators set up in terms of its constitution.

16. ADMINISTRATION AND ENFORCEMENT

- 16.1 The Council is responsible *for* the administration of this Agreement.
- 16.2 This agreement will be monitored and enforced by the Council's agents or designated agents appointed by the Minister of Labour.

ANNEXURE "A"

1. In this Annexure, "loans" means loans in terms of trade union initiated micro lending schemes.
2. An employer shall continue to make deductions for loans that were entered into prior to 1 January 2005.
3. An employer is entitled, subject to paragraph 4 below, not to make deductions for loans that were entered into on or after 1 January 2005, unless and until so required by arbitration award or court order.
4. The parties have agreed to the process set out in paragraph 5 below to determine the following issue ("the issue"): whether employers should be obliged to make deductions for loans entered into on or after 1 January 2005, and if so, in what circumstances and on what terms and conditions.
5. The process referred to in paragraph 4 is as follows:
 - 5.1 SAMWU and IMA TU will submit their statements of case on the issue to SALGA by 16 May 2005.
 - 5.2 SALGA will submit its statement of response on the issue to SAMWU and IMATU by 30 May 2005.
 - 5.3 Thereafter the issue will be submitted to interest arbitration, to be enrolled on not less than 21 days' notice to the parties, and the parties will convene a pre-arbitration meeting not less than 14 days prior to the commencement of the arbitration.

SAMWU BRANCHES

PROVINCE	BRANCH	TOTAL
EASTERN CAPE	1. Stomberg 2. Western District 1. Amatola 2. Wild Coast	4
GAUTENG	1. East Rand Branch 2. Greater Pretoria Extended Metro Branch 3. Greater Vaal 4. Greater JHB Metro Branch 5. West Rand	5
NORTHERN PROVINCE	1. Northern Branch 2. Far North Branch 3. Southern Branch	3
WESTERN CAPE	1. Cape Metro Branch 2. Boland 3. Garden Route/Karoo 4. North West	4
KWAZULU NATAL	1. South Coast 2. North Coast 3. Midlands Branch 4. Durban Metro Branch 5. Pietermaritzburg	5
NOTHERN CAPE	1. Upnam 2. Decama 3. Kimkuru	3
FREE STATE	1. North East Branch 2. Northern Branch 3. Southern Branch	3
MPUMALANGA	1. Highveldridge Branch 2. Highveld Branch 3. South East Highveld Branch 4. Lowveld Branch	4
NORTH WEST	1. Southern Branch 2. Mafikeng 3. Nothern Branch	3
TOTAL BRANCHES		34