

SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL

ESTABLISHMENT AGREEMENT

AGREEMENT BETWEEN:

SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION (SALGA)

“The Employer”

and

INDEPENDENT MUNICIPAL AND ALLIED TRADE UNION (IMATU); and

SOUTH AFRICAN MUNICIPAL WORKERS UNION (SAMWU)

“The Trade Unions”

(The Employer and the Trade Unions being collectively referred to as “the parties”)

1. PREAMBLE

This agreement provides for:

- 1.1 the adoption of the constitution of the South African Local Government Bargaining Council (SALGBC) and the registration thereof;
- 1.2 the dissolution and de-registration of all existing Bargaining Councils in the Local Government undertaking;
- 1.3 the establishment of the SALGBC on an interim basis by virtue of a collective agreement between the parties in terms of the provisions of the Labour Relations Act, No. 66 of 1995, as amended;
- 1.4 the dissolution of the National Labour Relations Forum for Local Government (NLRFLG);
- 1.5 regulation of collective bargaining issues.

2. ESTABLISHMENT OF THE SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL

2.1 The parties hereby agree to the content of the annexed Constitution (Annexure A) and the following:

2.1.1 the submission of the Constitution to the Registrar of Labour Relations, in terms of Section 29 of the Labour Relations Act;

2.1.2 the scope of such application will be for the whole of the local government undertaking in the Republic of South Africa;

2.1.3 the Secretary of the NLRFLG (who shall also be the acting Secretary of the Interim-SALGBC established in 2.4) is authorised and instructed to deal with all matters in relation to such application or incidental thereto;

2.1.4 the establishment of an Executive Committee of the Interim SALGBC (for purposes of facilitating the registration of the SALGBC), consisting of 5 representatives of SALGA, 2 representatives of IMATU and 3 representatives of SAMWU, which committee shall have the following powers and functions:

2.1.4.1 to direct the work of the interim Secretary of the SALGBC;

2.1.4.2 to forthwith request a meeting with the Minister of Labour and the Director of Industrial Relations in the Department of Labour, in order to brief them on the application for the registration of the SALGBC and to request the expedition of such application, and to address the issues referred to in 2.3, 3.3.1 and 3.3.4 hereafter in respect of the winding-up of existing Bargaining Councils and the registration of SALGA;

2.1.4.3 to undertake all necessary further administrative acts incidental to the registration of the SALGBC, which are not inconsistent with the provisions of the Constitution or this agreement.

2.2 The allocation of seats to the founding members of the Interim-SALGBC shall be as follows:

SALGA	-	30 seats
IMATU	-	12 seats
SAMWU	-	18 seats

- 2.3 It is recorded that SALGA has applied for registration in terms of the provisions of the Labour Relations Act.
- 2.4 The parties hereby agree to:
- 2.4.1 The dissolution of the National Labour Relations Forum for Local Government (NLRFLG) with effect from the date of signature hereof;
- 2.4.2 The establishment of the Interim South African Local Government Bargaining Council (Interim-SALGBC) with effect from the date of signature hereof.
- 2.5 The annexed Constitution of the SALGBC shall regulate the relations amongst the parties and as such shall constitute a collective agreement in terms of the Labour Relations Act, until the registration thereof.
- 2.6 Despite the content of 2.5 above, it is acknowledged that existing registered Bargaining Councils (save for those referred to in 3.1 below) shall, for the period up to their formal de-registration in terms of 3.3.2 below, continue to operate for the following purposes:
- 2.6.1 The collection of levies;
- 2.6.2 The consideration of budgets submitted by Divisions envisaged in 4.2 below and the transfer of funds to such Divisions;
- 2.6.3 The continuation of job evaluation processes and the dealing with disputes (and any other matter authorised by the Central Council), provided that the content of this sub-clause shall in no manner derogate from the principle that all parties are committed to the immediate establishment of divisional structures in the shortest possible time-frames, as a consequence of which the activities of the parties in existing Bargaining Councils shall be monitored by the Central Council on a continuous basis and the authority to continue with such activities in terms of this sub-clause is subject to the Central council reconfirming such authorisation from plenary to plenary.
- 2.7 In order to ensure the continued operation of existing registered Bargaining Councils as envisaged in 2.6 above, SALGA, MEO and CLAEO undertake not to effect the de-registration of MEO and CLAEO

until the simultaneous registration of SALGA and the SALGBC, provided that such continued existence of MEO and CLAEO shall not impede upon the present democratic process of transforming and restructuring organised local government. Consequently, SALGA shall be responsible for the continued and adequate representation of the employer component in the aforesaid Bargaining Councils in which the employer was represented by MEO and CLEO.

3. DISSOLUTION OF EXISTING BARGAINING COUNCILS

3.1 In respect of the Bargaining Councils for the Municipal Undertakings in Johannesburg, Port Elizabeth, Kimberly and Bloemfontein (being Councils without financial resources and which have utilised personnel on a seconded basis) the parties agree as follows:

3.1.1 that the Greater Johannesburg Transitional Metropolitan Council, the Port Elizabeth Transitional Local Council, the Kimberly Transitional Local Council and the Bloemfontein Transitional Local Council, shall immediately resign as parties from the aforesaid Bargaining Councils and that the Registrar of Labour Relations be notified accordingly;

3.1.2 if required and to the extent necessary, the aforesaid employers undertake to provide the necessary assistance and infrastructure for purposes of setting up interim-secretariats for the Divisions under the jurisdiction of which they will resort in terms of Schedule 2 of the Constitution;

3.1.3 the aforesaid constituent members of SALGA and the Union Parties shall establish in-house consultative committees to deal with those aspects which do not properly belong in the respective Divisions of the SALGBC, the establishment of which committees shall be subject to the approval of the Central Council of the SALGBC;

3.1.4 notwithstanding the foregoing, in the event that the parties to any of the said Bargaining Councils resolve it to be necessary, the termination of the activities of the Bargaining Council in question may be postponed for a period not exceeding two months from date of signature hereof during which period the Bargaining Council in question shall:

3.1.4.1 deal only with matters on its agenda at the date of signature hereof;

3.1.4.2 finalise all outstanding matters as far as possible;

3.1.4.3 determine from those matters it is not able to finalise, which of them will be referred to the relevant Division.

Upon termination of the agreed period of extension the provisions of 3.1.1 to 3.1.3 shall apply.

- 3.2 The Greater Johannesburg Transitional Metropolitan Council shall continue providing to the Greater Johannesburg Transitional Metropolitan Council Division of the SALGBC, the infrastructure and support which it presently gives to the unregistered Interim Greater Johannesburg Metropolitan Bargaining Council.
- 3.3 In respect of all registered Bargaining Councils, the parties agree on the following:
- 3.3.1 the Executive Committee referred to in 2.1.4 above, shall during its meeting with the Minister of Labour and the Director of Labour Relations, request that the Registrar of Labour Relations be required to make application to the Labour Court as envisaged in 3.3.2 below, failed which the parties agree to make a combined application to the Labour Court as per 3.3.2 below;
- 3.3.2 an application to the Labour Court shall be made in terms of Section 59 (1) (b) of the Labour Relations Act, No. 66 of 1995, as amended requesting the following relief:
- 3.3.2.1 that all existing Bargaining Councils be wound up, on the basis that these Councils are unable to function, given the terms of this agreement;
- 3.3.2.2 that the Registrar of Labour Relations be ordered to de-register these Bargaining Councils, simultaneously with the registration of the South African Local Government Bargaining Council, in order to ensure continuity;
- 3.3.2.3 that the registration of SALGA as an employer body be effected simultaneously with the registration of the SALGBC referred to in 3.3.2.2 above (if this has not yet occurred at that time).
- 3.3.3 In the event that the aforesaid application is unsuccessful, the parties agree to do whatever is required by the Registrar of Labour Relations, the provisions of the Labour Relations Act, or any directive from the Labour Court, to effect the expeditious de-

registration of existing Bargaining Councils and the simultaneous registration of the SALGBC.

3.3.4 The liquidation of the assets of the said Bargaining Councils, subsequent to their de-registration, shall be dealt with by the liquidator appointed by the Labour Court and any balance of assets to which any of the parties or their constituent members may be entitled, shall be made over to the SALGBC, and in those instances where any assets may devolve upon the State in terms of the provisions of constitutions which incorporate the provisions of the previous Labour Relations Act (No. 28 of 1956), the Executive Committee referred to in 2.1.4 above shall request the Minister of Labour to make the necessary arrangements in transferring such assets to the SALGBC.

3.4 Notwithstanding the provisions of the Constitution and this agreement, any Division that wishes to adapt any provisions of the Constitution or to deviate from such provisions in any respect during the interim phase prior to registration of the SALGBC, shall submit a motivation application to the Central Council detailing the following:

3.4.1 the extent to which local procedures and practice differs from the provisions of the Constitution;

3.4.2 whether the application for deviation/adoption is in respect of a permanent or temporary deviation, in which event details must be submitted as to how and when such Division envisages to implement/phase-in the provisions of the Constitution;

3.4.3 the reasons why such application should be granted.

3.5 All existing collective agreements (whether concluded in a Bargaining Council or any other Collective Bargaining Forum including the National Labour Relations Forum) shall, to the extent that they are not in conflict with the Constitution, be deemed to be of full force and effect until amended or repealed by the SALGBC.

4. EMPLOYEES AND FUNDS OF EXISTING BARGAINING COUNCILS

4.1 The parties agree that, as far as possible, employees presently in the employ of any of the existing Bargaining Council shall be accommodated in the employ of the SALGBC.

4.2 The funding of the activities of the Interim Divisions shall be effected by the payment of agency fees to those Divisions which fall within the

jurisdictional area of presently registered Bargaining Councils with accumulated funds, on the following basis:

- 4.2.1 affected interim Divisions shall present a budget to the relevant Bargaining Council;
- 4.2.2 the relevant Bargaining Council shall decide on an amount to be paid to such Interim Divisions for services rendered on an agency basis and the manner in which any payments are to be effected;

5. BARGAINING ISSUES

- 5.1 The parties agree to consult further on the process of bargaining on remuneration and conditions of employment issues for the 1998/99 financial year in order to agree same by no later than November 1997.
- 5.2 The parties shall take immediate steps to establish a data bank for the SALGBC on all local authorities, their number of employees and all substantive issues concerning remuneration, benefits, basic standards of employment, sources of financing Local Government, and such further matters as may be decided from time to time.
- 5.3 A Working Group of the SALGBC is to be established to manage the above and to commence consultation and where necessary commission research, on issues relating to:
 - 5.3.1 the viability of local government financial arrangements and the causes of and remedies for unviable local government;
 - 5.3.2 issues relating to the portion of a local government budget which is spent on personnel costs, councillor remuneration, remuneration of consultants and all other human resources costs;
 - 5.3.3 a basis for categorising Municipalities in terms of their viability, size, population, service provision responsibilities and general socio-economic and constitutional location;
 - 5.3.4 issues concerning the differential between the highest paid employees in any municipality and the minimum wage in such municipality in order to establish an equitable relationship between pay rates and between staff and other human resources costs;
 - 5.3.5 the formulation of a uniform occupational grading system for Local Government.

5.4 Further Working Groups shall be established as follows:

5.4.1 Organisational Rights Working Group

5.4.1.1 to attend to the organisational rights set out in Section A of Chapter III of the Act; and

5.4.1.2 the implementation of any agency shop for the sector.

5.4.2 Working Group on Local Structures and Procedures

5.4.2.1 to deal with the applications envisaged in 3.1.3 above in respect of in-house consultative committees;

5.4.2.2 to deal with the applications envisaged in 3.4 above, in respect of Divisions' applications to adapt the dispute resolution procedures contained in clause 10 of the Constitution, or to substitute some with another procedure or to deviate in any respect from the provisions of the Constitution.

5.4.3 Other

All other Working Groups of the NLRFG shall continue as Working Groups of the SALGBC and to the extent that the terms of reference of Working Groups established herein may overlap with those of Working Groups of the NL RFLG, the latter shall continue operating as Working Groups of the SALGBC.

Thus done and signed by the authorised representatives of the parties on 2 September 1997 in Port Elizabeth.