



## RESOLUTION NO 3 OF 2004

### ESTABLISHMENT OF PROVINCIAL AND NATIONAL DEPARTMENTAL CHAMBERS OF THE GPSSBC

#### **Scope:**

This agreement binds:

the employer;

the employees of the employer who are members of the trade union parties to this agreement; and

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.

#### **Purpose:**

**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.

**further noting** that the PSCBC in terms of Resolution 9/2003 exercised this right

**and noting** that clause 13.9 of the Constitution of Council enables the Council to establish chambers under its jurisdiction

**AGREEMENT:**

Therefore, the Council resolves that –

- (a) provincial and national departmental chambers of the GPSSBC be established as per Annexure A
- (b) current bargaining structures will cease to exist at the launch of the chambers by GPSSBC or by 30 June 2004.
- (b) Council will monitor the implementation of this agreement.

**DISPUTE RESOLUTION:**

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.

THIS DONE AND SIGNED AT CENTURION OF THIS 22nd DAY OF APRIL 2004.

**ON BEHALF OF THE EMPLOYER PARTY**

	Name	Signature
State as Employer	<i>Craig Macphenzie</i>	<i>C Macphenzie</i>

**ON BEHALF OF TRADE UNION PARTIES**

Trade Union	Name	Signature
NEHAWU	<i>Allister Charles</i>	<i>[Signature]</i>
POPCRU		
PSA	<i>Arnold Mkgobodi</i>	

*[Handwritten mark]*



## **ANNEXURE A**

### **ESTABLISHMENT OF PROVINCIAL AND NATIONAL DEPARTMENTAL CHAMBERS OF THE GPSSBC**

#### **1. DEFINITIONS**

- 1.1. Unless the context indicates otherwise,
  - 1.1.1. 'Chamber' means the Chamber of a given provincial administration or national department, established in terms of this Resolution;
  - 1.1.2. 'collective agreement', means a collective agreement referred to in clause 12.1;
  - 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 or national level' means a provincial or national departmental chamber or similar structure established for a given province in terms of the constitution of the 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 and National Department is hereby established by the Council in terms of clause 13.9 of the constitution.
- 2.2 A Chamber referred to in clause 2.1 shall be called 'the GPSSBC Chamber for the Province or National Department of X, where 'X' shall be the name of the province or National Department 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 or National Department for which it has been established.
- 3.2 Jurisdiction of a chamber
  - (i) A chamber's jurisdiction is limited to issues upon which—
    - (aa) in the case of a provincial chamber, the premier or the relevant executing authorities and/or the Head of the Department 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;

#### **4. POWERS AND FUNCTIONS**

The powers and functions of the Chamber shall be to –

- 4.1 enhance labour peace and to prevent labour disputes;
- 4.2 negotiate collective agreements within its area of jurisdiction and conclude such agreements subject to the provisions of paragraph 12 of this procedure;
- 4.3 supervise and monitor the implementation of collective agreements concluded in the chamber;
- 4.4 co-ordinate, facilitate and monitor the implementation of national and sectoral agreements;
- 4.5 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;
- 4.6 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 the Secretary of the meeting, to the Secretary of the Council;
- 5.3 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 of this Procedure.
- 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 or National Department to the Council.

#### **6. ADMISSION TO CHAMBER**

- 6.1 Trade Union parties admitted to the GPSSBC on National Level will be admitted to a Chamber.

## 7. COMPOSITION OF CHAMBER

- 7.1 The Chamber for a provincial administration or national department shall, unless otherwise agreed to by the parties to the Chamber, consist of-
- 7.1.1 two representatives per trade union party admitted to the Chamber;
  - 7.1.2 an equal number of representatives of the employer in the provincial administration/ National Department.
- 7.2 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 The Council shall appoint the secretary of the chamber on such conditions as determined by the Council. In the case of National Departmental Chambers the secretariat services may be provided by the relevant Department.
- 8.2 The Council can enter into an arrangement with any other Council 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 <sup>1</sup>books of account of the Chamber to Council once every calendar year for auditing
- 8.3.10 fulfil any other functions assigned to the secretary in this resolution, or by the Chamber or Council;
- 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 Parties admitted to the Chamber shall elect a chairperson and two vice-chairpersons from among the representatives of the parties admitted to the chamber. 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 Chamber. 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.

---

<sup>1</sup> These provisions should be captured in the Financial Procedure Manual of Council

**10. MEETINGS**

- 10.1 A Chamber meets as and when needed, but must meet at least 4 times per annum.
- 10.2 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.
- 10.5 The date, time and place of the meeting of the Chamber shall be determined by the Secretary of the Council or the chamber as the case may be.

**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 THE CHAMBER**

- 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 of Council, may consider any decision or collective agreement of a Chamber and notify Council of its finding.

### 13. QUORUM

- 13.1 The *employer* plus the number of admitted *trade unions* representing a majority of the votes on the side of labour constitute a quorum at any duly constituted meeting of the *Chamber*.
- 13.2 If, within 30 minutes of the time fixed for any meeting, a quorum is not present, the meeting stands adjourned to such other date, time and place to be determined by the Chairperson after consultation with the parties present, on condition that the *Secretary* notifies the relevant parties accordingly. At such a reconvened meeting the parties present form a quorum. The date and time for such reconvened meeting shall not be later than 10 *working days* after the date of the original meeting.

### 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 Chamber 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 concluded in an existing provincial or national departmental bargaining council or similar forum that falls within the jurisdiction of the GPSSBC must be submitted to the Council within 1 month of being established in terms of this agreement for ratification in terms of par. 12 of this procedure.