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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

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## DEPARTMENT OF LABOUR

NO. R. 997

15 SEPTEMBER 2017

## LABOUR RELATIONS ACT, 1995


**NATIONAL BARGAINING COUNCIL FOR THE ELECTRICAL INDUSTRY OF  
SOUTH AFRICA: EXTENSION TO NON-PARTIES OF THE COLLECTIVE  
BARGAINING LEVY AGREEMENT**

I, MILDRED NELISIWE OLIPHANT, Minister of Labour, hereby in terms of section 32(2) of the Labour Relations Act, 1995, declare that the provisions of the collective agreement which appears in the Schedule hereto, which was concluded in the National Bargaining Council for the Electrical Industry of South Africa and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the agreement, shall be binding on the other employers and employees in that industry, with effect from the second Monday after the date of publication of the agreement for a further period of twelve months.

.....*M N Oliphant*.....  
M N OLIPHANT, MP  
MINISTER OF LABOUR  
22/08/2017

**UMNYANGO WEZABASEBENZI****UMTHETHO WOBUDLELWENO KWEZABASEBENZI KA-1995****UMKHANDLU KAZWELONKE WOKUXOXISANA PHAKATHI  
KWABAQASHI NABASEBENZI EMBONINI KAGESI ENINGIZIMU AFRIKA:****UKWELULELWA KWESIVUMELWANO SENTELA SABAQASHI  
NABASEBENZI SELULELWA KULABO ABANGEYONA INGXEYENYE  
YESIVUMELWANO**

Mina, MILDRED NELISIWE OLIPHANT, uNgqongqoshe WezabaSebenzi, ngokwesigaba 32(2) soMthetho Wobudlelwano KwezabaSebenzi ka-1995, ngazisa ukuthi isiVumelwano sabaqashi nabasebenzi esitholakala kwiSheduli yesiNgisi exhunywe lapha, esenziwa uMkhandlu Kazwelonke Wokuxoxisana phakathi Kwabaqashi Nabasebenzi Embonini kaGesi Eningizimu Afrika, futhi ngokwesigaba 31 soMthetho Wobudlelwano kwezabaSebenzi, ka 1995 esibopha labo abasenzayo, sizobopha bonke abanye abaqashi nabasebenzi kuleyomboni, siyokuqala ukusebenza kusukela ngomSombuluko wesibili emva kokushicilelwa kwalesiSivumelwano ngokuqhubekela phambili ngezinyanga eziyishumi nambili.

  
.....  
MN OLIPHANT, MP  
UNGQONGQOSHE WEZABASEBENZI  
22/09/2017

**SCHEDULE****NATIONAL BARGAINING COUNCIL FOR THE ELECTRICAL INDUSTRY  
OF SOUTH AFRICA****COLLECTIVE BARGAINING LEVY AGREEMENT**

**in accordance with the provisions of the Labour Relations Act, 1995  
made and entered into by and between the**

**Electrical Contractors' Association (South Africa)**

**(hereinafter referred to as the "employers" or the "employers' organisation"),  
of the one part, and the**

**South African Equity Workers' Association,**

**(hereinafter referred to as the "employees" or the "trade union"), of the other part,  
being the parties to the National Bargaining Council for the Electrical Industry of  
South Africa.**

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## 1. SCOPE OF APPLICATION

- (1) The terms of this Agreement shall be observed –
  - (a) by all employers and employees in the Electrical Industry who are members of the employers' organisation and trade union, respectively, who are engaged or employed in the Industry.
  - (b) throughout the whole of the Republic of South Africa, excluding the Magisterial District of Kimberley, within a radius of 20 kilometres from the General Post Office, Kimberley.
- (2) The terms of this Agreement shall apply to apprentices and learners only in so far as they are not inconsistent with the provisions of the Skills Development Act, 1998, or any conditions prescribed or any notices served in terms thereof.
- (3) For the purposes of this Agreement, the "rate of remuneration" of learners prescribed under the Skills Development Act, 1998, shall be taken to be the weekly wage of such employees, and the "hourly rate" shall be the weekly wage calculated as above, divided by the number of ordinary hours worked in the establishment concerned.
- (4) The following categories are also excluded:
  - (i) Working employers
  - (ii) Administrative staff – Non Electrical Workers
  - (iii) Managerial Employees

## 2. PERIOD OF OPERATION

This Agreement shall come into operation on such date to be determined by the Minister of Labour in terms of section 32 of the Labour Relations Act, 1995, and shall remain in force for a period of 12 months from the date of publication.

## 3. TERMS AND CONDITIONS

A separate Collective Bargaining Levy Agreement is hereby agreed to and the provisions of the Labour Relations Act, 1995 (Act 66 of 1995)(as amended)(hereinafter referred to as the Act), where applicable, shall apply to this Agreement. The object of this Agreement is to ensure that all employees and employers in the scope of the Council who receive the benefits of collective bargaining contribute towards its costs.

This agreement shall be subject to the respective parties being representative, as required by section 25 of the Act, of employees or employers who are covered by the Main Collective Agreement of the National Bargaining Council for the Electrical Industry as verified by the Department of Labour from time to time. Accordingly, the



application of this agreement to either parties shall be subject to the party being representative.

#### 4. INDUSTRIAL ACTION

No person bound by the provisions of this Agreement shall engage in or participate in a strike or a lockout or any conduct in furtherance of a strike or a lockout in respect of any matter regulated by this Agreement for its duration.

#### 5. DEFINITIONS

Any expressions used in this Agreement which are defined in the Labour Relations Act, 1995 shall have the same meaning as in that Act, and any reference in this Agreement to an Act shall include any amendments to such Act; further, and unless the context otherwise indicates –

“Act” means the Labour Relations Act, 1995; (as amended)

“Area A” means the Magisterial Districts of Alberton, Benoni, Boksburg, Brakpan, Bronkhorstspuit, Carletonville, Cullinan, Delmas, Germiston, Heidelberg, Johannesburg, Kempton Park, Krugersdorp, Kwamhlanga, Mkobola Nigel, Oberholzer, Pretoria, Randburg, Randfontein, Roodepoort, Sasolburg, Soshanguve, Soweto, Springs, Vanderbijlpark, Vereeniging, Westonaria, Witbank and Wonderboom;

“Area B” means the Magisterial Districts of Amersfoort, Balfour, Bethal, Bochum, Brits, Ermelo, Garankuwa, Highveld Ridge, Klerksdorp, Kriel, Malamulela, Mankwe, Mhala, Middelburg (Mpumalanga), Mmabatho, Mokerong, Moretele, Nelspruit, Nsikazi, Phokwani, Pietersburg, Piet Relief, Pongola, Potchefstroom, Rustenburg, Seshego, Standerton, Thabamopo, Themba, Thohoyandou, Volksrust, Wakkerstroom, and White River;

“Area C” means the Magisterial Districts of Barberton, Bela-Bela (Wambaths) Belfast, Bloemfontein, Bloemhof, Bolobedu, Botshabelo, Carolina, Christiana, Coligny, Delareyville, Dzanani, Eerstehoek, Elias Motsoaledi (Grobblersdal) Giyani, Koster, Lephalale (Ellisras) Letaba, Lichtenburg, Lulekani, Lydenburg, Madikwe, Mapulaneng, Marico, Mblabana, Mdujana, Moutse, Musina(Messina), Namakgale, Naphuno, Nebo, Nkomazi, Pilgrim's Rest, Phalaborwa, Potgietersrus (only the district north of the Melk River), Schweizer-Reneke, Ritavi, Sekgosese, Sekhukhuneland, Soutpansberg, Swartruggens, Thabazimbi, Ventersdorp, Vuwani, Waterberg, Waterval Boven and Wolmaransstad;

“Area D” means the Magisterial Districts of Bethlehem, Harrismith, Hennenman, Kroonstad, Odendaalsrus, Parys, Ventersburg, Virginia, Welkom and Witsieshoek;

“Area E” means the Magisterial Districts of Barkly West, Bethulie, Boshof, Bothaville, Brandfort, Britstown, Bultfontein, Carnarvon, Clocolan, Colesberg, De Aar, Dewetsdorp, Edenburg, Excelsior, Fauresmith, Ficksburg, Fouriesburg, Frankfort, Fraserburg, Gordonias, Hanover, Hartswater, Heilbron, Herbert, Hoopstad,



Jacobsdal, Jagersfontein, Kenhardt, Kimberley (outside a 20 km radius from the General Post Office), Koffiefontein, Koppies, Kudumane, Kuruman, Ladybrand, Lindley, Marquard, Noupoort, Petrusburg, Philippolis, Philipstown, Prieska, Postmasburg, Reddersburg, Reitz, Richmond (Northern Cape), Rouxville, Senekal, Smithfield, Theunissen, Trompsburg, Victoria West, Viljoenskroon, Vrede, Vredefort, Vryburg, Warrenton, Wepener, Wesselsbron, Winburg and Zastron;

**"Area F"** means the Magisterial Districts of Port Elizabeth and Uitenhage;

**"Area G"** means the Magisterial Districts of Albany, Alexandria, Bathurst, Beaufort West, Calitzdorp, George, Humansdorp, Joubertina, Knysna, Ladismith, Mossel Bay, Oudtshoorn, Riversdale and Uniondale;

**"Area H"** means the Magisterial Districts of Aberdeen, Adelaide, Albert, Aliwal North, Barkley East, Bedford, Bizana, Butterworth, Cala, Cathcart, Centani, Cofimvaba St Marks, Cradock, Elliot, Elliotdale, Engcobo, Flagstaff, Fort Beaufort, Glen Grey, Graaff-Reinet, Hankey, Herschel, Hewu, Hofmeyer, Idutywa, Indwe, Jansenville, Keiskammahoek, King Williams Town, Kirkwood, Komga, Kwabhaca, Lady Grey, Libode, Lusikisiki, Maclear, Mdantsane, Middelburg (Eastern Cape), Middledrift, Molteno, Mount Ayliff, Mount Fletcher, Mount Frere, Mqanduli, Murraysburg, Ngqeleni, Nqamakwe, Ntabethemba, Pearston, Peddie, Prince Albert, Qumbu, Queenstown, Seymour(Mpofu), Somerset East, Sterkstroom, Steynsburg, Steytlerville, Stutterheim, Tabankulu, Tarka, Tsolo, Tsomo, Umtata, Umzimvubu (Port St Johns), Venterstad, Victoria East, Willowmore, Willowvale, Wodehouse; and Zwelitsha.

**"Area I"** means the Magisterial Districts of Bellville, Cape, Goodwood, Kuils River Mitchell's Plain, Simonstown, and Wynberg

**"Area J"** means the Magisterial Districts of Camperdown, Chatsworth, Durban, Inanda, Kranskop, Kwa Mapumulu, Lions River, Lower Tugela, Ndwedwe, New Hanover, Mapumulu, Pietermaritzburg, Pinetown, Richmond, Umbumbulu, Umlazi, Umvoti, and Vulindlela, inclusive of any former self-governing territories located therein.

**"Area K"** means the Magisterial Districts of Alfred, Babanango, Bergville, Dannhauser, Dundee, Emnambithi, Emzumbe, Enseleni, Eshowe, Estcourt, Ezingolweni, Glencoe, Hlabisa, Hlanganani, Impendle, Ingwavuma, Inkanyezi, Ixopo, Kliprivier, Lower Umfolozi, Mahlabatini, Moolrivier, Mount Currie, Msinga, Mtonjaneni, Newcastle, Ngotshe, Nkandla, Nongoma, Nqutu, Okhahlamba, Ongoye, Paulpietersburg, Polela, Port Shepstone, Simdlangentsha, Ubombo, Umzinto, Underberg, Utrecht, Vryheid, Vulamehlo and Weenen, inclusive of any former self-governing territories located therein; and Umzimkulu in the Eastern Cape.

**"Area L"** means the Magisterial District of East London;

**"Area M"** means the Magisterial Districts of Gordon's Bay, Malmesbury, Paarl, Somerset West, Stellenbosch, Strand and Wellington;



**"Area N"** means the Magisterial Districts of Calvinia, Clanshalliam, Hopefield, Morreesburg, Namaqualand, Piketberg, Sutherland, Vanrhynsdorp, Vredenburg and Vredendal,

**"Area O"** means the Magisterial Districts of Bredasdorp, Caledon, Ceres, Heidelberg, Hermanus, Laingsburg, Montague, Robertson, Swellendam, Tulbagh and Worcester.

Note: In the event of any magisterial district being omitted from the above, the Council shall determine under which Area such district should be placed.

**"Council"** means the National Bargaining Council for the Electrical Industry of South Africa;

**"region A"** means the Provinces of Gauteng, Limpopo, Mpumalanga, and North West Province.

**"region A1"** means the Free State/Northern Cape Region incorporating the Provinces of the Free State and the Northern Cape; but excludes the Magisterial Districts of Calvinia, Namaqualand and Sutherland in the Northern Cape.

**"region B"** means the Eastern / Southern Cape Region incorporating the Province of the Eastern Cape and the Magisterial Districts of Beaufort West, Calitzdorp, George, Knysna, Ladismith, Mossel Bay, Murraysburg, Oudshoorn, Prince Albert, and Uniondale in the Western Cape Province but excludes the Magisterial District of Umzimkulu in the Eastern Cape..

**"region C"** means the Province of Kwazulu Natal and the Magisterial District of Umzimkulu in the Eastern Cape.

**"region D"** means the Province of the Western Cape and the Magisterial Districts of Calvinia, Namaqualand and Sutherland in the Northern Cape but excludes the Magisterial Districts of Beaufort West, Calitzdorp, George, Knysna, Ladismith, Mossel Bay, Murraysburg, Oudshoorn, Prince Albert, Riversdale and Uniondale in the Western Cape .

## 6. COLLECTIVE BARGAINING LEVY

- (1) The purpose of the Collective Bargaining Levy is to subsidise the costs occasioned by collective bargaining on the parties to the Council including but not limited to consulting non-parties and mandate seeking, feedback to such parties, facilitation of collective bargaining and related activities to increase the representative capacity of bargaining units.
- (2) Subject to the provisions of this clause, a levy, to be known as a collective bargaining levy shall be deducted by employers from the wages of all



employees who are employed in the Industry on scheduled activities covered by the National Bargaining Council for the Electrical Industry of South Africa's Agreements and who are not members of a trade union which is a party to the National Bargaining Council for the Electrical Industry of South Africa. The collective bargaining levy monies so deducted shall be paid to the Council monthly in the amount as specified below:

- (3) All scheduled employees who are not members of party trade union(s) shall pay a levy of R10.00 per week for a period of 12 months from the date of coming into operation of this Agreement.
- (4) For the purposes of this agreement, "representative employers' organisation" means a registered employers' organisation whose members employ the majority of the employees in the electrical industry in the scope of the Council and a "representative trade union" means a registered trade union whose members are the majority of all the employees that is a party to the Council.
- (5) The prescribed Collective Bargaining Levy shall be equivalent to or less than the amount of the prevailing membership fees payable by the employer members of the Electrical Contractors' Association (South Africa) to the same association.
- (6) Every employer who is not a member of an employer's organisation party to the National Bargaining Council for the Electrical Industry of South Africa (a non-party employer) who is engaged in the Industry as defined, shall pay a collective bargaining levy monthly to the Council in an amount as specified below:
- (7) All employers who are not members of the party employer(s) organisation(s) shall pay an amount of R10.83 per scheduled employee per week for a period of 12 months from the date of coming into operation of this Agreement.
- (8) The monies will be used to fund the costs of collective bargaining activities of the parties to the Council from time to time and to subsidise the cost of training for employers and employees in the electrical contracting industry.
- (9) The National Finance Committee shall receive applications for the funding of such activities as contemplated in sub-clause (1) and submit recommendations to the National Council for approval.  
The National Council will in session ratify any recommendations made by the National Finance Committee.  
The funds will be paid to the applicant party providing the criteria for approved funding have been met.
- (10) The Council shall deposit all monies received in terms of the above into a separate bank account administered by the Council.
- (11) The Collective bargaining levy may not be used –



- (a) to pay an affiliate fee to a political party.
  - (b) to make a contribution in cash or kind to a political party or a person standing for election to any political office."
  - (c) for any expenditure that does not advance or protect the socio – economic interests of employees.
- (12) Employees who are not members of the party trade union(s) are not compelled to become members of that trade union.  
Employers who are not members of the party employer organisation(s) are not compelled to become members of that employers' organisation.
- (13) A conscientious objector may request the employer to pay the amount deducted from that employee's wages into a fund administered by the Department of Labour.
- (14) The registered party trade union(s) and employers' organisation(s) will keep records and books according to the standards of generally accepted accounting practice, principles and procedures.
- (15) The registered party trade union(s) and employers' organisation(s) will provide information to the Registrar in terms of Section 25(1) and (2), Section 98 and Section 100 of the Labour Relations Act 66 of 1995 as amended.
- (16) If an employer or an employers' organisation or an employee or a trade union or any interested person or organisation alleges that the representative employers' organisation or the representative trade union is no longer a representative employers' organisation or representative trade union as envisaged in sub-clause 6(4) it must give the employers' organisation or trade union written notice of the allegation, and must allow the employers' organisation or trade union 90 days from the date of the notice to prove that it is a representative employers' organisation or a representative trade union.
- (17) If within the 90-day period, the representative employers' organisation or representative trade union fails to prove that it is a representative employers' organisation or a representative trade union, the employer or employers' organisation or employee or trade union or interested person or organisation making the allegation, must give the employers' organisation or trade union which claims to be representative, notice of its intention to request the Minister of Labour to withdraw the extension of this agreement to non-parties.
- (18) If the extension of this agreement to non-parties is withdrawn by the Minister of Labour for any reason, the provisions of sub-clause 6(10) shall apply until all the Collective Bargaining Levies due up until the date of withdrawal of this Agreement have been received and paid out in accordance with sub-clause 6(10).



## **7. PAYMENT OF THE COLLECTIVE BARGAINING LEVY**

- (1) For the purposes of Clause 6 (7) above, a week shall constitute not less than three shifts actually worked during any one week from Monday to Friday (inclusive).
- (2) Every employer shall, by no later than the 15<sup>th</sup> day of each month, forward to the regional offices of the Council all contributions in respect of the preceding month in the manner prescribed by the Council from time to time.
- (3) Regardless of whether any amount is payable to the Council in terms of this clause, every employer shall, by no later than the 15<sup>th</sup> day of each month, forward to the Council the levy return in respect of the preceding month and in the manner indicated therein.

## **8. EXEMPTIONS AND APPEALS**

- (1) In terms of section 32 of the Act the Council shall consider all applications for exemption from any of the provisions of this Agreement for any good and sufficient reason within 30 days from the date of receipt of such application.
- (2) All applications for exemption shall be in writing (on an application form provided by the Council) and shall be addressed to the Regional Manager of the Council in the relevant region for consideration by the Regional Exemptions Committee.
- (3) All applications for exemptions shall be substantiated, and such substantiation shall include the following details:
  - (a) The period for which the exemption is required,
  - (b) the Agreement and clauses or sub-clauses of the Agreement from which the exemption is required,
  - (c) proof that the exemption applied for has been discussed by the employer, his employees and their respective representatives. The responses resulting from such consultation, either in support of or against the application, shall be included with the application.
- (4) The Regional Manager of the Council shall place the applications for exemption on the agenda of the next Regional Exemptions Committee meeting for consideration.
- (5) The Regional Manager shall provide the Regional Exemptions Committee with details of all the applications for exemption.

- (6) The Council shall consider and decide on all written applications and, when requested by the applicants or objectors to do so, may interview applicants or objectors at its following meeting:
- (5) The Council may defer a decision to a following meeting if additional substantiation, information or verbal representations are considered necessary to decide on the application for exemption.
- (8) Once the Council has decided to grant an exemption, it shall issue a certificate and advise the applicant(s) within 14 days of the date of its decision.
- (9) When the Council decides against granting an exemption or part of an exemption requested, it shall advise the applicant(s) within 14 days of the date of such decision and shall provide the reason or reasons for not granting an exemption.

(10) Exemption criteria -

The Council shall consider all applications for exemption with reference to the following criteria:

- (a) The written and verbal substantiation provided by the applicant,
- (b) the extent of consultation with and the petition for or against granting the exemption as provided by employers or employees who are to be affected by the exemption if granted,
- (c) the terms of the exemption,
- (d) the infringement of basic conditions of employment rights,
- (e) the fact that a competitive advantage may not be created by the exemption,
- (f) the effect of the exemption on any employee benefit fund or training provision in relation to the alternative comparative bona fide benefit or provision, including the cost to the employee, transferability, administration management and cost, growth and stability,
- (g) the extent to which the proposed exemption undermines collective bargaining and labour peace in the Electrical Industry,
- (h) any existing special economic or other circumstances which warrant the granting of the exemption,
- (i) reporting requirements by the applicant and monitoring and re-evaluation processes, and



- (j) cognisance of the recommendations contained in the Report of the Presidential Commission to Investigate Labour Market Policy.
  - (k) Once a notice to attend arbitration proceedings has been issued, no employer or employee may make application for exemption from any provision of the collective agreement to which the arbitration notice relates.
  - (l) Any exemption applied for after the notice to attend arbitration has been issued shall not stay the arbitration proceedings. The arbitrator shall be requested to make an appropriate arbitration award.
- (11) In terms of section 32 of the Act, the Council hereby establishes an Independent Appeal body to hear and decide as soon as possible, but no later than 30 days after the appeal is lodged, against –
- (a) the Council's refusal of an application for exemption from the provisions contained in this Agreement,
  - (b) the withdrawal of such exemption by the Council.
- Provided that such appeals are lodged with Council within 30 days from the date of receipt of the outcome of the exemption application.
- (12) The Secretary shall, upon receipt of a written application for an appeal, forward the application together with the original application for exemption and all supporting documents to the Independent Appeal body for a decision.
- (13) The Independent Appeal body shall consider all applications within 14 days of receipt with reference to the criteria set out in sub-clause (10) above and shall ensure that the applications are not in conflict with the primary objects of the Act.
- (14) The Independent Appeals Body may defer a decision to a subsequent meeting if additional motivation, information or verbal representations are considered necessary to decide the application for exemption.
- (15) The Independent Appeals Body shall issue a certificate within 14 days of the date of its decision to uphold the appeal and grant exemption. The certificate should specify the terms of the exemption and the reporting requirements by the applicant and the monitoring and re-valuation processes.
- (16) The Independent Appeals Body shall advise the applicant(s) within 10 working days of the date of its decision not to grant exemption or part of an exemption requested and shall provide a written reason or reasons for the decision not to grant exemption.



## **9. GENERAL RULES GOVERNING CONCILIATIONS AND ARBITRATIONS CONDUCTED UNDER THE AUSPICES OF THE COUNCIL**

- (1) Notwithstanding the following procedures and rules, any omissions there from shall be dealt with in accordance with the Rules for the Conduct of Proceedings before the CCMA as amended from time to time.
- (2) **How to bring an application**
  - (a) This rule applies to any application for condonation, joinder, substitution, variation or recession, application in a jurisdictional dispute or any other preliminary application.  
All applications must comply with Rule 31 of the CCMA rules.
- (3) **How to apply to vary or rescind arbitration awards or rulings**
  - (a) An application for the variation or rescission of an arbitration award or ruling must be made within 14 days of the date on which the applicant became aware of the arbitration award or ruling or became aware of a mistake common to the parties to the proceedings.
  - (b) A ruling made by a Council appointed conciliator or arbitrator which has the effect of a final order, will be regarded as a ruling for the purposes of this clause.
- (4) **Condonation for failure to comply with the rules**

The Council or arbitrator or conciliator may condone any failure to comply with the time frames in this clause, on good cause shown.

## **10. RESOLUTION OF DISPUTES**

### **(1) Procedure to enforce compliance with this agreement:**

The Council shall take all reasonable steps necessary to ensure compliance with this agreement. If whether through its own investigations or through any other source, it appears as if the provisions of this agreement have been breached then the following procedure shall apply to enforce compliance:

- (a) The appointed official of Council shall investigate the alleged breach.
- (b) If, upon completion of the investigation, the appointed official of Council has reason to believe that this agreement has been breached, the appointed person may endeavor to secure compliance with the agreement by any or all of the following means:



- (i) Issue a compliance order requiring any person bound by the collective agreement to comply with the collective agreement within a specified period.
- (ii) refer the matter to arbitration in terms of this agreement
- (iii) a designated agent of Council shall have all the powers conferred to him in terms of section 33 read with section 33A and Schedule 10 of the Act.

(c) Arbitration

- (i) Upon referral of the unresolved dispute to arbitration, Council shall appoint an arbitrator from its panel to hear and determine the alleged breach of this agreement. The arbitrator shall be independent of the Council.
- (ii) The Council shall decide the date, time, and venue of the arbitration hearing, but shall give the parties at least 21 days written notice of an arbitration hearing, unless the parties agree to a shorter period.
- (iii) The Council shall serve notice of the date, time and venue of the arbitration on all parties who may have a legal interest in the outcome of arbitration.
- (iv) Any party who has a legal interest in the outcome of the arbitration shall have the right to –
  - give evidence
  - call witnesses
  - question the witnesses of the other party
  - address the concluding arguments with the arbitrator
  - be represented by a legal practitioner or co-employee or any office-bearer or official of his trade union or employers' organisation and, if the party is a juristic person, by a director or employee thereof.

(d) The arbitrator shall have the following powers:

- (i) To determine whether there has been a breach of this agreement.
- (ii) To make any appropriate award that gives effect to the collective agreement and to ensure compliance therewith.
- (i) To conduct the arbitration in a manner and form that he considers appropriate in order to determine the dispute fairly and quickly but shall deal with the substantial merits of the dispute with the minimum of legal formalities. Subject to the discretion of the arbitrator as to the appropriate form of the proceedings, a party to the dispute may give evidence, call witnesses, question the witnesses of any other party, and address concluding arguments to the arbitrator.
- (iv) The appointed arbitrator may at any stage prior to or during the arbitration proceedings, suspend the arbitration proceedings and attempt to resolve the dispute through conciliation with the consent of all the parties to the dispute. If appropriate, the



arbitrator may refer the dispute to another conciliator to be conciliated.

- (v) To adjourn the arbitration proceedings to a later date or to make an award in the absence of a party who is alleged to have breached the agreement, if -

- such party fails to appear in person or to be represented at

the arbitration proceedings, and *prima facie* evidence has been presented to the arbitrator that the party in question has failed to comply with this agreement. Provided that proof is presented that written notification has been forwarded to such party -

- (a) by registered mail or telegram to such party's last known address or an address chosen by that person to receive service and 21 days have lapsed since such notification has been mailed; or

- (b) by fax transmission or telexing to such party's last known fax number or telex number; or a fax or telefax number chosen by

that person to receive service and 21 days have lapsed since

such notification has been faxed; or

- (c) by hand delivery to such party's last known business or residential address; or an address chosen by that person to receive service and 21 days have lapsed since such notification has been hand delivered.

- (d) by emailing a copy of the document to the person's email or an email address chosen by that person to receive service.

- (e) a document may also be served -

(i) on a company or other body corporate by handing a copy to a responsible employee of the company or body at its registered office, its principal place of business within the Republic or its main place of business within the magisterial district in which the dispute first arose;

(ii) on an employer by handing a copy of that document to a responsible employee of the employer at the workplace where the employees involved in the dispute ordinarily work or worked;

(iii) on a trade union or employers' organisation by handing a copy of that document to a responsible employee or official at the main office of the union or employers' organisation or its office in the magisterial district in which the dispute arose;

(iv) on a partnership, firm or association by handing a copy of that document to a responsible employee or official at the place of business of the partnership, firm or association or, if it has no place of business, by serving a copy of the document on a partner, the owner of the firm or chairman or secretary of the managing or other controlling body of the association, as the case may be;



(v) on a municipality, by serving a copy of the document on the municipal manager or any person acting on behalf of that person;

(vi) on a statutory body, by handing a copy to the secretary or similar officer or member of the board or committee of that body, or any person acting on behalf of that body or

(vii) on the state or a province, a state department or a provincial department, a minister, premier or a member of the executive committee of a province by handing a copy to a responsible employee at the head office of the party or to a responsible employee at any office of the State Attorney.

(f) if no person identified in (e)(i) to e(vii) above is willing to accept service, service may be effected by affixing a copy of the document to -

(i) the main door of the premises concerned; or

(ii) if this is not accessible, a post box or other place to which the public has access.

(vi) The arbitrator conducting arbitration in terms of this sub-clause has the powers of a Commissioner in terms of section 33A, section 142 and section 138 of the Act, read with the changes required by the context.

(vii) The appointed arbitrator shall have the power to vary, rescind or amend any arbitration award issued by him or by any arbitrator on application by any affected party or on his own accord within 14 days of the date on which the applicant became aware of the arbitration award or ruling or a mistake common to the parties to the proceedings and without limiting the generality hereof shall have this power if -

- the award was erroneously sought or erroneously made in the absence of any party affected by the award.
- the award is ambiguous or contains an obvious error or omission, but only to the extent of that ambiguity, error or omission
- the award was granted as a result of a mistake common to the parties to the proceedings.

(e) Any award made by the arbitrator, shall be served on all interested parties by the Council and must be made within 14 days after the expiry of the arbitration proceedings.

(f) The Council may apply to make the arbitration award an order of court in terms of section 143 or section 158(1) of the Act.

(g) The Council may apply for a writ of execution to enforce the order of court made in terms of section 143(1) of the Act.

(h) The provisions of this procedure shall apply in addition to any other legal remedy which the Council may apply to enforce a collective



agreement. In the event that the Council has to instruct a debt collecting agency or a legal practitioner to collect and or to litigate in respect of any amount due to it by the defaulter in terms of any arbitration award, the defaulter will also be liable in terms of this clause for payment of any commission and any other litigation costs incurred in the enforcement and collection thereof."

- (l) If the arbitrator finds that any party to the dispute has failed to comply with a provision of Council's collective agreements which are binding on that party, then the arbitrator shall, in addition to any other appropriate order, impose a fine on the non-compliant party in accordance with Section 29 (2) of Schedule 7 of the Act, read with Section 33A of the Act. An arbitrator shall also include in an order, any interest that is due in terms of clause 29 of the Council's main collective agreement and an arbitration fee of R500, 00.
- (j) Notwithstanding the provisions of this clause, the Council may utilise section 33A, section 142 and Schedule 10 of the Act to monitor and enforce compliance with its collective agreements.
- k) Despite the provisions of this clause, a Council agent may not issue a compliance order in respect of any amount payable to an employee as a result of a failure to comply with any provision of this agreement if -
  - (i) That amount has been payable by the employer to the employee for longer than 12 months before the date on which a complaint was made to the Council by or on behalf of that employee or, if no complaint was made, the date on which a Council agent first endeavored to secure compliance.
  - (ii) Despite the aforesaid, if the non-compliance relates to unpaid Pension and or Provident Fund contributions, the Council must issue a compliance order to secure compliance.

## 11. GENERAL

No employer or employee may waive the provisions of this Agreement, whether or not the said provisions create a benefit or obligation upon the employer or employee concerned. Every provision, sub-clause or clause shall create a right or obligation, as the case may be, independently of the existence of other provisions.

## 11. OFFICES OF THE NATIONAL BARGAINING COUNCIL FOR THE ELECTRICAL INDUSTRY OF S.A.

### 1. NATIONAL OFFICE – JOHANNESBURG

9 <sup>TH</sup> FLOOR THE LIBERTY 17 WOLMARANS STREET BRAAMFONTEIN	TEL : 011/3392312
	FAX : 011/3392366



JOHANNESBURG 2001	011/3397112
P O BOX 31402 BRAAMFONTEIN 2017	

**2. JOHANNESBURG REGIONAL OFFICE**

9 <sup>TH</sup> FLOOR THE LIBERTY 17 WOLMARANS STREET BRAAMFONTEIN JOHANNESBURG 2001	TEL : 011/3392312
P O BOX 31402 BRAAMFONTEIN 2017	FAX : 011/3392366 011/3397112

**3. BLOEMFONTEIN REGIONAL OFFICE**

74 VICTORIA ROAD WILLOWS BLOEMFONTEIN. 9301	TEL : 051/444-5869 051/444-5984
P.O. BOX 1379 BLOEMFONTEIN. 9300	FAX : 051/4445801

**4. CAPE TOWN REGIONAL OFFICE**

31 COOK STREET GOODWOOD 7460 (Entrance on Vasco Boulevard)	TEL : 021/591-4784
P.O. BOX 1220 PAROW, 7499	FAX : 021/5916261

**5. KWAZULU NATAL REGIONAL OFFICE**

23 LENNOX ROAD GREYVILLE DURBAN 4023	TEL : 031/306-8100 031/309-1326 031/309-1325 031/309-1307 031/309-1279
P.O BOX 47852 GREYVILLE DURBAN 4023	FAX : 031/309-1269

**6. EAST LONDON REGIONAL OFFICE**

UNIT 205 ETCOTT SQUARE 256 OXFORD STREET EAST LONDON 5201.  P.O. BOX 19852 TECOMA, 5214	TEL :043/722 – 0120/21  FAX :043/722-0122
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**7. NELSPRUIT REGIONAL OFFICE**

NO 25 SAMORA MARCHEL DRIVE SANLAM BUILDING OFFICE 201 NELSPRUIT 1200  P.O. BOX 19646 THE VILLAGE MALL, NELSPRUIT, 1200	TEL : 013/755-4262  FAX : 013/753-3089
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**8. PRETORIA REGIONAL OFFICE:**

286 PRETORIUS STREET C/N CENTRAL STREET CENTRAL TOWERS BUILDING OFFICE NO: 513A, 5 <sup>th</sup> FLOOR PRETORIA CENTRAL  P.O. BOX 12399 HATFIELD, 0028	TEL : 012/323-4251  FAX : 012/323-4250
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**9. PORT ELIZABETH, REGIONAL OFFICE:**

12 WORRAKER STREET NEWTON PARK PORT ELIZABETH. 6001  P.O. BOX 27287 GREENACRES. 6057	TEL : 041/363-5460  FAX : 041/363-5465
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**10. POLOKWANE REGIONAL OFFICE**

ROOM 314 PIONEER BLD 50 LANDDROS MARE STREET POLOKWANE. 0699  P.O. BOX 2478 POLOKWANE. 0700	TEL : 015/291-4157  FAX : 015/291-4152
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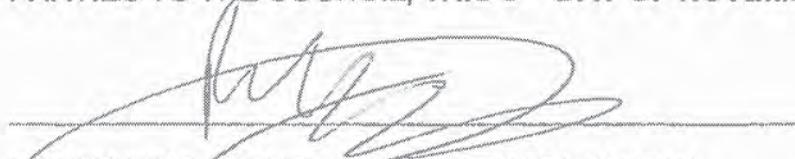
**11. GEORGE REGIONAL OFFICE:**

OFFICE 201, YORK MALL100 YORK STREET GEORGE 6530	TEL : 044/874-5738
P.O. BOX 1952 GEORGE 6529	FAX : 044/874-5378

**12. RUSTENBURG REGIONAL OFFICE**

SUITE 2 FIRST FLOOR 128 BEYERS NAUDE RUSTENBURG. 0299	TEL : 014/592-1469
	FAX : 014/592-1454

SIGNED AT BRAAMFONTEIN AS AUTHORISED FOR AND ON BEHALF OF THE  
PARTIES TO THE COUNCIL, THIS 5<sup>TH</sup> DAY OF NOVEMBER 2016.



R MCALPINE - GENERAL SECRETARY - SAEWA



S KHOLA - NATIONAL LABOUR DIRECTOR - ECA (SA)



D VAN DEVENTER AND M MPHIKOE - ACTING NATIONAL GENERAL  
SECRETARY