



RESOLUTION NO _4_ OF 2004

ADOPTION OF RULES FOR THE CONDUCT OF PROCEEDINGS BEFORE THE GENERAL PUBLIC SERVICE SECTOR BARGAINING COUNCIL

Scope:

This agreement binds:

the employer;

trade unions party to this agreement;

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 Constitution of Council in paragraph 22.2 enables Council to draft rules to amplify the dispute resolution procedures,

further noting that the GPSSBC is accredited by the Governing Body of the CCMA in terms of section 127 of the Labour Relations Act 66/1995 as amended to perform dispute resolution functions,

and noting that section 28(1)(d) of the Labour Relations Act (66/1995 as amended) provides for the Council to perform dispute resolution functions in terms of section 51 of the Act.

Agreement:

Therefore, the Council resolves that –

The annexure to this agreement be adopted as the rules for conduct of proceedings before the GPSSBC

The rules will come into effect on the 1 January 2005

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.

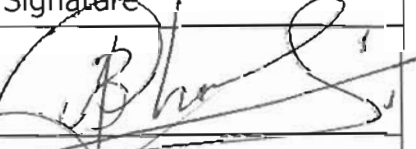
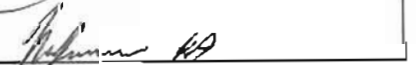
THIS DONE AND SIGNED AT Centurion OF THIS

.3rd. DAY OF .November. 2004.

ON BEHALF OF THE EMPLOYER PARTY

	Name	Signature
State as Employer	BN Nkontwana	

ON BEHALF OF TRADE UNION PARTIES

Trade Union	Name	Signature
NEHAWU	Allister CHARLES	
POPCRU	DURING MOINISEN	
PSA	A Mokgashodi	



RULES FOR THE CONDUCT OF PROCEEDINGS BEFORE THE GENERAL PUBLIC SERVICE SECTORAL BARGAINING COUNCIL (GPSSBC)

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PART ONE

SERVING AND FILING DOCUMENTS

1. HOW TO CONTACT THE COUNCIL:

- (1) The addresses, telephone and telefax numbers of the office of the Council are as follows:

Physical address: Lyttelton Office Village, 260 Basden Street, Lyttelton, 0176

Postal address: PO Box 4437, Pretoria, 0001

Telephone: (012) 644 8132

Fax: (012) 664 8749

- (2) Documents may only be filed with the Council at the address or telefax numbers listed in sub rule (1).

2. OFFICE HOURS:

- (1) Office of the Council will be open every day from Monday to Friday, excluding public holidays, between the hours of 07h30 and 16h00 or as determined by the Council.
- (2) Documents may only be filed with the Council during the hours referred to in sub rule (1).

3. HOW TO CALCULATE TIME PERIODS IN THESE RULES:

- (1) For the purpose of calculating any period of time in terms of these rules-
- (a) day means a calendar day; and
 - (b) the first day is excluded and the last day is included, subject to sub rule (2).
- (2) If the last day of any period falls on a Saturday, Sunday, Public Holiday or on a day during the period between 16 December to 7 January, the last day, for purposes of sub rule (1)(b) will be 8 January or the next working day.

4. WHO MUST SIGN DOCUMENTS:

- (1) A document that a party must sign in terms of the Act or these rules may be signed by the party or by a person entitled to in terms of the Act or these rules to represent that party in the proceedings.
- (2) If proceedings are jointly instituted or opposed by more than one employee, documents may be signed by an employee who is mandated by the other employees to sign documents. A name list in writing of the employees who have mandated the employee to sign on their behalf must be attached to the referral document.

5. HOW TO SERVE DOCUMENTS ON OTHER PARTIES:

- (1) A party must serve a document on the other parties –
 - (a) by handing a copy of the document to –
 - (i) a person identified in sub rule (2);
 - (ii) a representative authorised in writing to accept service on behalf of a person identified in sub rule (2);
 - (iii) a person who appears to be at least 16 years old and in charge of a persons place of residence, business or place of employment premises at the time;
 - (b) by leaving a copy of the document at –
 - (i) an address chosen by the person identified in sub rule (2) to receive service;
 - (ii) any premises in accordance with sub rule (3);
 - (c) by faxing a copy of the document to a person identified in sub rule (2) fax or telex number respectively, or a number chosen by that person to receive service;
 - (d) by sending a copy of the document by registered post or telegram to the last-known address of the party or an address chosen by the party to receive service.
- (2) A document must be served–
 - (a) in the case of the employer, on a responsible employee of the employer at the workplace where the employee/s involved in the dispute ordinarily work or worked or the chief negotiator of the State
 - (b) in the case of an employee or trade union, on the employee or on an official at the trade union's head office.

(3) If no person identified in sub rule (2) is willing to accept service, service may be effected by affixing a copy of the document to –

- (a) the main door of the premises concerned or;
- (b) if this is not accessible, a post-box or other place to which the public has access.

6. HOW TO PROVE THAT A DOCUMENT WAS SERVED IN TERMS OF THE RULES:

(1) A party must prove to the Secretary or a panellist that a document was served in terms of these rules, by providing the Secretary or a panellist:

- (a) with a copy of proof of mailing the document by registered post to the other party;
- (b) with a copy of the telegram or telex communicating the document to the other party;
- (c) with a copy of the telefax transmission report indicating the successful transmission to the other party of the whole document; or
- (d) if a document was served by hand –
 - (i) with a copy of a receipt signed by, or on behalf of, the other party clearly indicating the name and designation of the recipient and the place, time and date of service; or
 - (ii) with a statement confirming service signed by the person who delivered a copy of the document to the other party or left it at any premises.

(2) If proof of service in accordance with sub rule (1) is provided, it is presumed, until the contrary is proved, that the party on whom it was served has knowledge of the contents of the document.

7. HOW TO FILE DOCUMENTS WITH THE COUNCIL:

(1) A party must file documents with the Council:

- (a) by handing the document to the office of the Secretary at the address as per rule 1;
- (b) by sending a copy of the document by registered post to the office of the Secretary at the address as per rule 1; or
- (c) by faxing the document to the office of the Secretary at the number listed in rule 1.

(2) A document is filed with the Council when –

- (a) the document is handed to the office of the Secretary;
- (b) a document sent by registered post is received by the office of the Secretary; or
- (c) the transmission of the whole of a fax is completed.

(3) A party must only file the original of a document filed by fax, if requested to do so by the Secretary or a Panellist. A party must comply with a request to file an original document within seven days of the request.

8. DOCUMENTS AND NOTICES SENT BY REGISTERED POST:

Any document or notice sent by registered post by a party or the Council is presumed, until the contrary is proved, to have been received by the person to whom it was sent seven days after it was posted.

9. HOW TO SEEK CONDONATION FOR DOCUMENTS FILED LATE:

- (1) This rule applies to any referral document or application delivered outside of the applicable time period prescribed in the Act, these rules, or the dispute resolution procedure of the Council.
- (2) A party must apply for condonation, in terms of rule 30, when filing the document with the Council.
- (3) An application for condonation must set out the grounds for seeking condonation and must include details of the following:
 - (a) the degree of lateness;
 - (b) the reasons for the lateness;
 - (c) the referring parties' prospects of succeeding with the referral and obtaining the relief sought against the other party;
 - (d) any prejudice to the other party; and
 - (e) any other relevant factors.
- (4) The Secretary may assist a referring party to comply with this rule.

PART TWO

CONCILIATION OF DISPUTES

10. HOW TO REFER A DISPUTE TO THE COUNCIL FOR CONCILIATION:

- (1) A referral of a dispute for conciliation must be made on the referral forms of the Council.
- (2) The referring party must –
 - (a) sign the referral document in accordance with rule 4;
 - (b) attach to the referral document written proof, in accordance with rule 6, that the referral document was served on the other parties to the dispute;
 - (c) if the referral document is filed out of time, attach an application for condonation in accordance with rule 9.
- (3) The Secretary will refuse to accept a referral document until sub rule (2) has been complied with.

11. WHAT NOTICE MUST THE SECRETARY GIVE OF A CONCILIATION:

The Secretary must give the parties at least 14 days notice in writing of a conciliation hearing, unless the parties agree to a shorter period of notice.

12. SECRETARY MAY SEEK TO RESOLVE A DISPUTE BEFORE CONCILIATION:

The Secretary or a panellist may contact the parties by telephone or other means, prior to the commencement of the conciliation, in order to seek to resolve the dispute.

13. HOW TO DETERMINE WHETHER A PANELLIST MAY CONCILIATE A DISPUTE:

If it appears during conciliation proceedings that a jurisdictional issue has not been determined, the panellist must require the referring party to prove that the Council has the jurisdiction to conciliate the dispute through conciliation.

14. ISSUING OF A CERTIFICATE OF OUTCOME:

A certificate of outcome, stating whether the dispute has or has not been resolved, must identify the nature of the dispute, as described in the referral document, or as identified by the panellist and agreed to by parties during the conciliation process.



15. CONCILIATION PROCEEDINGS MAY NOT BE DISCLOSED:

- (1) Conciliation proceedings are private and confidential and are conducted on a without prejudice basis. No person may refer to anything said at conciliation proceedings during any subsequent proceedings, unless the parties agree in writing.
- (2) No person, including a panellist, may be called as a witness during any subsequent proceedings in the Council or in any court to give evidence about what transpired during conciliation.

PART THREE

ARBITRATIONS

16. HOW TO REQUEST ARBITRATION:

- (1) A party may request the Council to arbitrate a dispute by filing the referral form for arbitration with the Secretary.
- (2) The referring party must -
 - (a) sign the referral document in accordance with rule 4;
 - (b) attach to the referral document written proof that the referral document was served on the other parties to the dispute in accordance with rule 6; and
 - (c) if the referral document is served out of time, attach an application for condonation in accordance with rule 9 .
- (3) The Secretary will refuse to accept a referral document until sub rule (2) has been complied with.

17. WHEN MUST THE PARTIES FILE STATEMENTS:

- (1) The Secretary or a panellist may direct –
 - (a) the referring party in an arbitration to deliver a statement of case; and
 - (b) the other parties to deliver an answering statement.
- (2) A statement in terms of sub rule (1) must –
 - (a) set out the material facts upon which the party relies and the legal issues that arise from the material facts;
 - (b) be delivered within the time-period specified in the notice referred to in sub rule (1).



18. WHEN THE PARTIES MUST HOLD A PRE-ARBITRATION CONFERENCE:

- (1) The Secretary to Council or a panellist may request parties to a dispute to hold a pre-arbitration conference dealing with the matters referred to in sub rule (2).
- (2) In a pre-arbitration conference, the parties must attempt to reach consensus on the following:
 - (a) any means by which the dispute may be settled;
 - (b) facts that are agreed between the parties;
 - (c) facts that are in dispute;
 - (d) the issues that the Panellist is required to decide;
 - (e) the precise relief claimed and if compensation is claimed, the amount of the compensation and how it is calculated;
 - (f) the sharing and exchange of relevant documents, and the preparation of a bundle of documents in chronological order with each page numbered;
 - (g) the manner in which documentary evidence is to be dealt with, including any agreement on the status of documents and whether documents, or parts of documents, will serve as evidence of what they appear to be;
 - (h) whether evidence on affidavit will be admitted with or without the right of any party to cross examine the person who made the affidavit;
 - (i) which party must begin;
 - (j) the necessity for any *in loco* inspection;
 - (k) securing the presence at the hearing of any witness;
 - (l) the resolution of any preliminary points that are intended to be taken
 - (m) the exchange of witness statements
 - (n) expert evidence;
 - (o) any other means by which the proceedings may be shortened;
 - (p) an estimate of the time required for the hearing;
 - (q) the right of representation; and
 - (r) whether an interpreter is required and, if so, for how long and for which languages.

- (3) Unless a dispute is settled, the parties must draw up and sign a minute setting out the facts on which the parties agree or disagree in terms of sub rule (2).
- (4) A minute in terms of sub rule (3) may also deal with any other matter not listed in sub rule (2).
- (5) The referring party must ensure that a copy of the pre-arbitration conference minute is delivered to the appointed panellist and the Secretary to Council within seven days of the conclusion of the pre-arbitration conference.
- (6) The Secretary may after receiving a pre-arbitration minute –
 - (a) enrol the matter for arbitration;
 - (b) direct the parties to hold a further pre-arbitration conference; or
 - (c) make any other direction to the parties concerning the conduct of the arbitration.
- (7) If a party that has referred a matter to arbitration fails to attend a pre-arbitration conference, the panellist may deal with the matter in terms of rule 29.
- (8) If any other party fails to attend a pre-arbitration conference without a justifiable reason, the panellist may make an order of cost against that party.
- (9) The parties to an arbitration may agree on own accord to hold a pre-arbitration conference in terms of sub rule (2)
- (10) Such pre-arbitration conference as per sub rule (9) must be conducted at least fourteen (14) days before the scheduled set down of the matter.

19. WHAT NOTICE MUST THE SECRETARY GIVE OF ARBITRATION:

The Secretary must give the parties at least 21 days notice, in writing, of an arbitration hearing, unless the parties agree to a shorter period.

20. HOW TO DETERMINE WHETHER A PANELLIST MAY ARBITRATE A DISPUTE:

If during the arbitration proceedings it appears that a jurisdictional issue has not been determined, the panellist must require the referring party to prove that the Council has jurisdiction to arbitrate the dispute.

PART FOUR

RULES THAT APPLY TO CONCILIATIONS AND ARBITRATIONS

21. WHERE A CONCILIATION OR ARBITRATION WILL TAKE PLACE:

- (1) A dispute must be conciliated or arbitrated in the province in which the cause of action arose, unless otherwise directed by the Secretary.
- (2) The conciliation and /arbitration proceedings shall be held at a venue to be determined by the Secretary, which shall preferably be at the Employee's workplace or the premises of the trade union concerned.

22. WHO MAY APPEAR OR REPRESENT PARTIES IN PROCEEDINGS BEFORE THE COUNCIL:

- (1) In the conciliation proceedings a party to the dispute may appear in person or be represented only by a member, an office bearer or official of that party's trade union or by an employee of any national department or provincial administration.
- (2) Despite sub rule (1) the panellist may during conciliation allow for legal representation to argue matters of Jurisdiction only. After the legal representative argued the matter he/she must be excused from the proceedings.
- (3) In deciding the admissibility of representation as per sub rule (2) the Panellist must take into account the complexity of the issue to be argued, the level of representation of the other party in being able to respond to the argument and any prejudice that may be suffered by any party to allow such representation.
- (4) In any arbitration proceedings, a party to the dispute may appear in person or be represented only by a legal practitioner, a member, and office bearer or official of that party's trade union or an employee of a national department or a provincial administration.

23. OBJECTIONS TO A REPRESENTATIVE APPEARING BEFORE THE COUNCIL:

- (1) A party to the dispute that challenges the right of appearance of a representative must furnish reasons showing why the representative does not have the right of appearance.
- (2) The panellist may call upon the representative to furnish reasons why the representative should be permitted to appear.
- (3) A representative must tender any documents requested by the panellist, in terms of sub rule (2), including but not limited to, constitutions, payslips, contracts of employment, documents and forms, recognition agreements and proof of membership of a trade union or employers' organisation.



24. HOW TO JOIN OR SUBSTITUTE PARTIES TO PROCEEDINGS:

- (1) The Secretary or a panellist may join any number of persons as parties in proceedings if their right to relief depends on substantially the same question of law or fact.
- (2) A panellist may make an order joining any person as a party in the proceedings if the party to be joined has a substantial interest in the subject matter of the proceedings.
- (3) A panellist may make an order in terms of sub rule (2) -
 - (a) of its own accord;
 - (b) on application by a party; or
 - (c) if a person entitled to join the proceedings applies at any time during the proceedings to intervene as a party.
- (4) An application in terms of this rule must be made in terms of rule 30.
- (5) When making an order in terms of sub rule (2), a panellist may –
 - (a) give appropriate directions as to the further procedure in the proceedings; and
 - (b) make an order of costs in accordance with these rules
- (6) If in any proceedings it becomes necessary to substitute a person for an existing party, any party to the proceedings may apply to the Secretary for an order substituting that party for an existing party, and a panellist may make such order or give appropriate directions as to the further procedure in the proceedings.
- (7) An application to join any person as a party to proceedings or to be substituted for an existing party must be accompanied by copies of all documents previously delivered, unless the person concerned or that person's representative is already in possession of the documents.
- (8) Subject to any order made in terms of sub rules (5) and (6), a joinder or substitution in terms of this rule does not affect any steps already taken in the proceedings.

25. HOW TO CORRECT THE CITATION OF A PARTY:

If a party to any proceedings has been incorrectly or defectively cited, the Secretary or panellist may, on application and on notice to the parties concerned correct the error or defect.

26. WHEN THE COUNCIL MAY CONSOLIDATE DISPUTES:

The Secretary or a panellist, of his/her own accord or on application, may consolidate more than one dispute so that the disputes may be dealt with in the same proceedings.

27. DISCLOSURE OF DOCUMENTS:

- (1) Either party may request a panellist to make an order as to the disclosure of relevant documents.
- (2) The parties may agree on the disclosure of documents.

28. HOW TO POSTPONE A HEARING:

- (1) A scheduled hearing may be postponed –
 - (a) by agreement between the parties in terms of sub rule (2); or
 - (b) by application and on notice to the other parties in terms of sub rule (3).
- (2) The Secretary must postpone a hearing without the parties appearing if –
 - (a) all the parties to the dispute agree in writing to the postponement; and
 - (b) the written agreement for the postponement is received by the Secretary at least 5 working days prior to the scheduled date of the arbitration.
- (3) If the conditions of sub rule (2) are not met, any party to the dispute may request a postponement provided that it is received by the Secretary and the other parties to the dispute at least 7 working days before the scheduled date of the hearing.
- (4) A party that does not agree to a postponement as contemplated in sub rule 3 may make written representations to the Secretary at least 5 working days before the scheduled date of the hearing.
- (5) After due consideration of any written representations received in terms of sub rule 4, the Secretary must decide whether or not to grant a request for postponement in terms of sub rule 3 and convey his/her decision in writing to the panellist and all parties to the dispute.
- (6) If a party to a dispute fails to comply with the time periods referred to in sub rules 1 or 3, the hearing must take place on the scheduled date, unless the Secretary on good cause shown grants a postponement and conveys his/her decision in writing to the panellist and all parties to the dispute.
- (7) If a panellist adjourns a hearing in terms of rule 29, the party or parties responsible for the adjournment must bear the cost of adjournment.

29. WHAT HAPPENS IF A PARTY FAILS TO ATTEND PROCEEDINGS BEFORE THE COUNCIL:

- 1) If an applicant fails to attend or be represented at any proceedings before the Council, a panellist may dismiss the matter by issuing a ruling: and
- (2) If a respondent fails to attend or be represented at any proceedings before the Council, a panellist may-
 - (i) continue with the proceedings in the absence of the respondent; or
 - (ii) adjourn the proceedings to a later date
- (3) A panellist must be satisfied that the party had been properly notified of the date, time and venue of the proceedings, before making any decision in terms of sub rule (1) or (2).
- (4) If a matter is dismissed, the Secretary must send a copy of the ruling to the parties.

PART FIVE

APPLICATIONS

30. HOW TO BRING AN APPLICATION:

- 1) This rule applies to any –
 - (a) application for condonation, joinder, substitution, variation or rescission;
 - (b) application in a jurisdictional dispute;
 - (c) application to have a settlement agreement made an arbitration award in terms of section 142(A) of the Labour Relations Act
 - (d) other preliminary or interlocutory application
- (2) An application must be brought on notice to all persons who have an interest in the application.
- (3) The party bringing the application must sign the notice of application in accordance with rule 4 and must state -
 - (a) the title of the matter;
 - (b) the case number assigned to the matter by the Secretary;
 - (c) the relief sought;

- (d) the address at which the party delivering the document will accept delivery of all documents and proceedings;
 - (e) that any party that intends to oppose the matter must deliver a notice of opposition and answering affidavit within fourteen days after the application has been delivered to it;
 - (f) that the application may be heard in the absence of a party that does not comply with sub-paragraph (e);
 - (g) that a schedule is included listing the documents that are material and relevant to the application.
- (4) The application must be supported by an affidavit. The affidavit must clearly and concisely set out -
- (a) the names, description and addresses of the parties;
 - (b) a statement of the material facts, in chronological order, on which the application is based, in sufficient detail to enable any person opposing the application to reply to the facts;
 - (c) a statement of legal issues that arise from the material facts, in sufficient detail to enable any party to reply to the document;
 - (d) if the application is filed outside the relevant time period, grounds for condonation in accordance with rule 9; and
 - (e) if the application is brought urgently, the circumstances why the matter is urgent and the reasons why it cannot be dealt with in accordance with the time frames prescribed in these rules.
- (a) Any party opposing the application may deliver a notice of opposition and an answering affidavit within fourteen days from the day on which the application was served on that party.
 - (b) A notice of opposition and an answering affidavit must contain, with the changes required by the context, the information required by sub rules (3) and (4) respectively.
- (6) (a) The party initiating the proceedings may deliver a replying affidavit within seven days from the day on which any notice of opposition and answering affidavit are served on it.
- (b) The replying affidavit must address only issues raised in the answering affidavit and may not introduce new issues of fact or law.

The Secretary or panellist may permit the affidavits referred to in this rule to be substituted by a written statement.

(8) In an urgent application, the Secretary or a panellist-

- (a) may dispense with the requirements of this rule; and
- (b) may only grant an order against a party that has had notice of the application.

(9) (a) The Secretary must allocate a date for the hearing of the application once a replying affidavit is delivered, or once the time limit for delivering a replying affidavit has lapsed, whichever occurs first.

(b) The Secretary must notify the parties of the date, time and place of the hearing of the application.

(10). Despite this rule, the Secretary or a panellist may determine an application in any manner he/she deems fit.

31. HOW TO APPLY TO VARY OR RESCIND, ARBITRATION AWARDS OR RULINGS:

1) An application for the variation or rescission of an arbitration award or ruling must be made within fourteen days of the date on which the applicant became aware of-

(a) the arbitration award or ruling; or

(b) a mistake common to the parties to the proceedings

(2) A ruling made by a panellist, which has the effect of a final order, will be regarded as a ruling for the purposes of this rule.

PART SIX

CON-ARB IN TERMS OF SECTION 191(5A)

32. CONDUCT OF CON-ARB IN TERMS OF SECTION 191(5A):

(1) The Council must give the parties at least fourteen (14) days notice in writing that a matter has been scheduled for con-arb in terms of section 191(5A) of the Act.

(2) A party that intends to object to a dispute being dealt with in terms of section 191(5A), must deliver a written notice to the Secretary and the other party, at least seven days prior to the scheduled date in terms of sub rule (1).

(3) Sub rule (2) does not apply to a dispute concerning the dismissal of an employee for any reason related to probation or an unfair labour practice relating to probation.

- (4) If a party fails to appear or be represented at a hearing scheduled in terms of sub rule (1), the panellist must conduct the conciliation on the date specified in the notice issued in sub rule (1).
- (5) Sub rule (4) applies irrespective of whether a party has lodged a notice of objection in terms of sub rule (2).
- (6) Representation of parties in con-arb proceedings is determined in accordance with the provisions of Rule 22.
- (7) The provisions of the Act and these rules that are applicable to conciliation and arbitration respectively apply, with the changes required by the context, to con-arb proceedings.
- (8) If the arbitration does not commence on the date specified in terms of the notice in sub rule (1), the Secretary must schedule the matter for arbitration by issuing a notice in terms of rule 21.

PART SEVEN

CHAIRING OF DISCIPLINARY HEARINGS IN TERMS OF PSCBC RESOLUTION 1/2003

33. HOW TO REQUEST A CHAIRPERSON TO CHAIR A DISCIPLINARY HEARING IN TERMS OF PSCBC RESOLUTION 1/2003:

- 1) An employer requesting the Council to conduct a disciplinary hearing in terms of clause 7.3 (c) must do so by delivering the, completed referral form to the Council.
- (2) The employee must sign the referral form consenting to the process, unless the employee has consented in terms of a contract of employment, in which case a copy of the contract must be attached to the form.
- (3) When filing the referral form, the employer must pay the prescribed fee to the Council. Payment of the fee may only be made by -
 - (a) bank guaranteed cheque; or
 - (b) electronic transfer into the bank account of the Council
- (4) Within twenty-one (21) days of receiving a request in terms of sub rule (1) and payment of the prescribed fee, the Secretary must notify the parties to the disciplinary hearing of when and where the hearing will be held.
- (5) Unless the parties agree otherwise, the Secretary must give the parties at least fourteen (14) days notice of the commencement of the hearing.

- (6) The Council is only required to refund a fee paid in terms of sub rule (3), if the Council is notified of the resolution/ postponement of the matter prior to issuing a notice in terms of sub rule (4).

PART EIGHT

GENERAL

34. CONDONATION FOR FAILURE TO COMPLY WITH THE RULES:

The Secretary or a panellist may condone any failure to comply with the time frames in these rules on good cause shown.

35. RECORD OF PROCEEDINGS:

- (1) The Council must keep a record of –
- (a) any evidence given in an arbitration hearing;
 - (b) any sworn testimony given in any proceedings before the Council; and
 - (c) any arbitration award or ruling made by a panellist.
- (2) The record may be kept by legible hand-written notes or by means of an electronic or a mechanical recording.
- (3) A party may request a copy of the transcript of a record or a portion of a record kept in terms of sub rule (2), on payment of the costs of the transcription.
- (4) After the person who makes the transcript of the record has certified that it is correct, the record must be returned to the Secretary.
- (5) The transcript of a record certified as correct in terms of sub rule (4) is presumed to be correct, unless the Labour Court decides otherwise.

36. HOW TO HAVE A SUBPOENA ISSUED:

- 1) Any party who requires the panellist to subpoena a person in terms of section 142(1) of the Act, must file a completed subpoena form together with a written motivation setting out why the evidence of the person to be subpoenaed is necessary.
- (2) A party requesting the Council to waive the requirement for the party to pay witness fees in terms of section 142(7)(c) must set out the reasons for the request in writing at the time of requesting the Council to issue a subpoena in respect of that witness.



- (3) An application in terms of sub rule (1) must be filed with the Secretary at least fourteen days before the arbitration hearing, or as directed by the panellist hearing the arbitration.
- (4) The Secretary or a panellist may refuse to issue a subpoena if–
- (a) the party does not establish why the evidence of the person is necessary;
 - (b) the party subpoenaed does not have a reasonable period in which to comply with the subpoena;
 - (c) the Secretary or a panellist is not satisfied that the party has made arrangements to pay the witness fees and the reasonable travel costs of the person subpoenaed.
- (5) A subpoena must be served on the witness subpoenaed –
- (a) by the Secretary, by the person who has requested the issue of the subpoena or by the Sheriff, at least seven days before the scheduled date of the arbitration; and
 - (b) if so directed by the panellist, accompanied by payment of the prescribed witness fees for one day in accordance with the tariff of allowances published by notice in the Government Gazette in terms of section 142(7) of the Act and the witnesses' reasonable travel costs.

37. PAYMENT OF WITNESS FEES:

- (1) A witness subpoenaed in any proceedings in the Council must be paid a witness fee in accordance with the tariff of allowances published by notice in the Government Gazette in terms of section 142(7) of the Act, provided that, if such witness is an employee of the state, such witness shall not be paid an allowance for the time that he/she was required to be available to give evidence during such proceedings, unless he or she can show that he or she will not be paid for such time.
- (2) The witness fee must be paid by –
- (a) the party who requested the Council to issue the subpoena; or
 - (b) the Council, if the issue of the subpoena was not requested by a party or if the Secretary or panellist waives the requirement for the party to pay witnesses fees in terms of section 142(7)(c)
- (3) Despite sub rule (1), the panellist may, in appropriate circumstances, order that a witness receive no fee or only part of the prescribed fee.

38. TAXATION OF BILLS OF COST:

- (1) The basis on which a panellist may make an order as to costs in any arbitration, is regulated by the dispute resolution procedure of the Council and section 138(10) of the Act.
- (2) The Secretary may appoint taxing officers to perform the functions of a taxing officer in terms of these rules.
- (3) The Secretary will determine the date, time and venue for the taxation.
- (4) The taxing officer must tax any bill of costs for services rendered in connection with proceedings in the Council in terms of Annexure A attached hereto.
- (5) At the taxation of any bill of costs, the taxing officer may call for any book, document, paper or account that, in the taxing officer's opinion, is necessary to properly determine any matter arising from the taxation.
- (6) Any person requesting a taxation must complete the application form
- (7) The taxing officer must ascertain -
 - (a) the party's entitlement to be present at the taxation; and
 - (b) that the parties have received notice of the date, time and place of the taxation.
- (8) Any decision by a taxing officer has the status of an arbitration award and is subject to review by the Labour Court.

39. WHAT WORDS MEAN IN THESE RULES:

Any expression in these rules that is defined in the Labour Relations Act , 1995 (Act No. 66 of 1995), has the same meaning as in that Act except that, if such expression is defined in the constitution or the dispute resolution procedure of the Council, it shall have the same meaning as in the constitution or such dispute procedure.

"Act" means the Labour Relations Act, 1995 (Act No. 66 of 1995), and includes any regulation made in terms of that Act;

"association" means any unincorporated body of persons;

'con-arb" means proceedings held in terms of section 191(5A);

"deliver" means serve on other parties and file with the Commission

" employer" means the State as employer falling within the registered scope of the Councils

'file' means to lodge with the Council in terms of rule 7

"Labour Court" means the Labour Court established by section 151 of the Act and includes any judge of the Labour Court;

"panellist" means a person appointed to handle disputes as conciliators or arbitrators;

"party" means any party to proceedings before the Council and may be organisations and / or individuals;

"public holiday" means a public holiday referred to in section of the Public Holidays Act, 1994 (Act No. 36 of 1994);

Council" means the GPSSBC

"rules" means these rules and includes any footnote to a rule;

"Secretary" means the secretary of the Council

"serve" means to serve in accordance with rule 5 and "service" has a corresponding meaning; and

"taxing officer" means any panellist appointed by the Secretary in terms of rule 38.

"working days" means working days, excluding Saturdays, Sundays and Public holidays, and excludes the first and includes the last day.

ANNEXURE A : TAXATION OF BILL OF COSTS

	DESCRIPTIONS OF FEES AND DISBURSEMENTS	FEES & DISBURSEMENTS APPLICABLE TO LEGAL PRACTITIONERS AND TO TRADE UNION OFFICIALS, OFFICIALS OF EMPLOYERS' ORGANISATIONS AND EMPLOYEE ACTING ON BEHALF OF THEIR EMPLOYERS AND TO THE COUNCIL
1.	Taking instructions to refer or to defend a dispute.	R150-00
2.	Completion of "referral document".	R60-00
3.	Service and filing of documents	Any disbursement reasonably incurred to give effect to the provisions of clauses requiring a document to be forwarded to the Council or other party.
4.	Taking instructions to request arbitration, where applicable.	R75-00
5.	Making necessary copies	R1-00 per page
6.	Taking instructions to make or to oppose any other application as provided in the rules	R150-00
7.	Drafting and drawing documents in support of or in opposition of any application in terms of the rules.	R20-00 per folio
8.	Attending on signature of any affidavit drafted in support or in opposition of an application in terms of the rules.	R60-00
9.	Preparation for arbitration hearing and consulting with witnesses.	R300-00 per hour.

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	DESCRIPTIONS OF FEES AND DISBURSEMENTS	FEES & DISBURSEMENTS APPLICABLE TO LEGAL PRACTITIONERS AND TO TRADE UNION OFFICIALS, OFFICIALS OF EMPLOYERS' ORGANISATIONS AND EMPLOYEE ACTING ON BEHALF OF THEIR EMPLOYERS AND TO THE COUNCIL
10.	Attending conciliation arbitration, pre-arbitration conference including waiting time, time spent on attending inspection in loco, and travelling time to and from the venue.	R100-00 per quarter-hour or part thereof.
11.	Sorting, arranging and pagination of documents and compiling index for purposes of an arbitration hearing.	R100-00
12.	Any necessary telephone call for purposes of the orderly process of determining the dispute between the parties, including the disbursements incurred in making on receiving the telephone call.	R10-00
13.	Any necessary letter written or received for purpose of the orderly process of determining the dispute between the parties, including any disbursement incurred in sending or receiving the letter.	R10-00
14.	Travelling costs for the purposes of attending conciliation, con-arb, pre-arbitration conference, arbitration hearing and taxation.	R1-50 per kilometre
15.	Drawing bill of costs	R75-00
16.	Attending to taxation	R75-00

NOTE

One folio consists of two hundred and fifty (250) words or part thereof.