

RESOLUTION NO 3 OF 2017

**AMENDMENT OF GPSSBC RESOLUTION 4 OF 2004: RULES FOR THE
CONDUCT OF PROCEEDINGS BEFORE THE GENERAL PUBLIC
SERVICE SECTOR BARGAINING COUNCIL**

1. SCOPE

This agreement binds:

- 2.1 the employer;
- 2.2 trade union parties to this agreement;
- 2.3 the employees of the employer who are members of the trade union parties to this agreement; and
- 2.4 the employees of the employer who are not members of any trade union parties to this agreement, but who fall within the registered scope of Council.

2. PURPOSE

Noting that the Constitution of Council in paragraph 22.2 enables Council to draft Rules to amply 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.

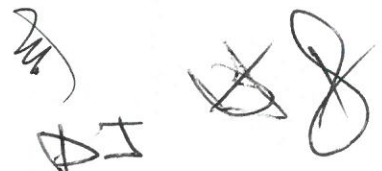
3. AGREEMENT

Therefore, the Council resolves that –

- 3.1 The attached annexure replaces the adopted Rules for the Conduct of Proceedings before the General Public Service Sector Bargaining Council, as per Resolution 4 of 2004.

All correspondence must be addressed to the General Secretary

Public Services Bargaining Centre
260 Basden Avenue, Lyttelton, 0176
PO Box 16663, Lyttelton, 0140
Tel: +27 12 644 8132 Fax: +27 12 664 8749
Web: www.gpsbc.org.za



4. 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.

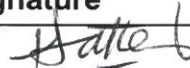
5. IMPLEMENTATION OF AGREEMENT

5.1 This agreement shall come into effect on the date it enjoys majority support and will remain in force unless terminated or amended by agreement.

5.2 The Council will monitor the implementation of this agreement

THIS DONE AND SIGNED AT Centurion OF THIS 05 DAY
OF December 2017.

ON BEHALF OF THE EMPLOYER PARTY

	Name	Signature
State as Employer	Ronnie Pather	

ON BEHALF OF TRADE UNION PARTIES

Trade Union	Name	Signature
NEHAWU	DJ Mavuso	
POPCRU	UNATHI KA THELETHI	
PSA	JH Oosthuizen	

All correspondence must be addressed to the General Secretary

Public Services Bargaining Centre
260 Basden Avenue, Lyttelton, 0176
PO Box 16663, Lyttelton, 0140
Tel: +27 12 644 8132 Fax: +27 12 664 8749
Web: www.gpsbc.org.za

RULES FOR THE CONDUCT OF PROCEEDINGS BEFORE THE GPSSBC

The GPSSBC hereby, publishes the Rules as A Collective Agreement on

TABLE OF CONTENTS

PART ONE SERVING AND FILING DOCUMENTS

- 1 How to contact the Council
- 2 When are the offices of the Council open
- 3 How to calculate time periods in these Rules
- 4 Who must sign documents
- 5 How to serve documents on other parties
- 5A Notice of proceedings before the Council
- 6 How to prove that a document was served in terms of the Rules
- 7 How to file documents with the Council
- 8 Documents and notices sent by registered post
- 9 How to seek condonation for documents filed late

PART TWO CONCILIATION OF DISPUTES

- 10 How to refer a dispute to the Council for conciliation
- 11 When must the Secretary notify parties of the conciliation
- 12 The Secretary may seek to resolve dispute before conciliation
- 13 What happens if a party fails to attend at conciliation
- 14 How to determine whether a Panelist may conciliate a dispute
- 15 Issuing a certificate in terms of Outcome
- 16 Conciliation proceedings may not be disclosed

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

- 17 Conduct of con-arb in terms of Section 191(5A)

PART FOUR ARBITRATIONS

- 18 How to request arbitration
- 19 When must the parties file statements
- 20 When the parties must hold a pre-arbitration conference
- 21 When must the Secretary notify the parties of the arbitration
- 22 How to determine whether a Panelist may arbitrate a dispute
- 23 How to postpone a hearing



PART FIVE
RULES THAT APPLY TO CONCILIATIONS AND ARBITRATIONS AND CON-ARBS

- 24 Where a conciliation or arbitration will take place
- 25 Who may appear or represent parties in proceedings before Council
- 26 Objections to a representative appearing before the Council
- 27 How to join or substitute parties to proceedings
- 28 How to correct a citation of a party
- 29 When the Council may consolidate disputes
- 30 Disclosure of documents
- 31 What happens if a party fails to attend proceedings before the Council

PART SIX
APPLICATIONS

- 32 How to bring an application
- 33 How to apply to vary or rescind arbitration awards or rulings

PART SEVEN
INQUIRY IN TERMS OF SECTION 188A

- 34 How to request an inquiry by arbitrator in terms of Section 188A

PART EIGHT
DISCIPLINARY HEARINGS IN TERMS OF PSCBC RESOLUTION 1/2003

- 35 How to request a chairperson to chair a disciplinary hearing in terms of PSCBC Resolution 1/2003

PART NINE
GENERAL

- 36 Condonation for failure to comply with the Rules
- 37 Recordings of Council proceedings
- 38 How to have a subpoena issued
- 38A Expert witnesses
- 39 Payment of witness fees
- 40 Order of costs in an arbitration (replaces the old Rule 38 pertaining to Taxation of bills of cost)
- 41 Certification of arbitration awards
- 42 Definitions



PART ONE SERVING AND FILING DOCUMENTS

1 How to contact the Council

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

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

Postal address: P O Box 4437, Pretoria, 0001

Telephone: (012) 644 8132

Fax: (012) 664 8749

Email: Referrals@gpssbc.org.za

- 2) Documents may only be filed with the Council at the addresses, telefax numbers and e-mail addresses listed in above in sub-rule (1).

2 When are the offices of the Council open

- 1) The office of the Council will be open every day from Monday to Friday, excluding public holidays, between the hours of 07h30 and 16h30, or as determined by the Council.
- 2) Documents may be filed with the Council during the hours referred to in sub-rule (1).
- 3) Notwithstanding sub-rule (2), documents may be faxed and e-mailed at any time to the Council.

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) The last day of any period must be excluded if it 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 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 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) the person identified in sub-rule (2);
 - ii) a representative authorized in writing to accept service on behalf of the person;
 - iii) a person who appears to be at least 16 years old and in charge of the person's place of residence, business or place of employment premises at the time; or
 - b) by leaving a copy of the document at -
 - i) an address chosen by the person identified in sub-rule (2) to receive service; or
 - ii) any premises in accordance with sub-rule (3);
 - c) by e-mailing, faxing or telexing a copy of the document to the person's e-mail, fax or telex number respectively, or an e-mail address, fax or telefax 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 may also be served -
 - a) in the case of the employer by handing a copy of the document to 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 an official at the trade union's head office;
 - c) 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.
- 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.
- 4) The Council or a panelist may order service in a manner other than prescribed in this Rule.

Handwritten signature and initials in the bottom right corner of the page.

5A Notice of proceedings before the Council

The Council may provide notice of conciliation or arbitration hearing, or any other proceedings before it, by means of any of the methods prescribed in Rule 5 and may, in addition, give notice by means of short message service.

6 How to prove that a document was served in terms of the Rules

- 1) A party must prove to the Secretary or a panelist that a document was served in terms of these Rules, by providing the Council or a panelist -
 - a) with a copy of proof that the document has been mailed by registered post to the other party;
 - b) with a copy of the telegram or telex transmitting 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;
 - 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; and
 - e) if a document was served by e-mail, with a copy of the sent e-mail indicating the successful dispatch to the other party of the e-mail and any attachments concerned.
- 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. The relevant provisions of the Electronic Communications and Transactions Act 25 of 2002 are applicable in respect of any issue concerning service by e-mail.
- 3) The Council may accept proof of service in a manner other than prescribed in this Rule, as sufficient.

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 or e-mailing the document to the office of the Department of the Secretary at a number or e-mail address listed in Rule 1. Documents filed by means of e-mail must be transmitted in a format



that is compatible with software used by the Council at the time of filing.

- 2) A document is filed with the Council when -
 - a) the document is handed to office of the Secretary;
 - b) a document sent by registered post is received by the office of the Secretary;
 - c) the transmission of a fax is completed; or
 - d) the e-mail is received in the office of the Secretary, as provided for in the Electronics Communications and Transactions Act 25 of 2002.
- 3) A party must only file the original of a document, if requested to do so by the Council or a panelist. A party must comply with a request to file an original document within seven (7) 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 (7) 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 31, when delivering the document to 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) read with Rule 31.
- 3) The Council must accept, but may refuse to process a referral document until sub-rule (2) has been complied with.

11 When must the Secretary notify parties of a conciliation

The Secretary must notify the parties in writing of a conciliation hearing at least fourteen (14) days prior to the scheduled date, unless the parties agree to a shorter period or reasonable circumstances require a shorter period. The time period of fourteen (14) days runs from the date the notification is sent by the Council. If a notification is sent by registered mail an additional seven (7) days must be allowed.

12 The Secretary may seek to resolve dispute before conciliation

The Secretary or a panelist 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 What happens if a party fails to attend at conciliation

- 1) If a party on whose behalf a matter has been referred fails to attend the panelist may -
 - a) continue with the proceedings;
 - b) adjourn the conciliation to a later date within the 30-day period; or
 - c) conclude the proceedings by issuing a certificate that the dispute remains unresolved.
- 2) In exercising discretion in terms of sub-rule (1), a panelist should take into account, amongst other things -
 - a) whether the party has previously failed to attend conciliation in respect of that dispute;
 - b) any reason given for that party's failure to attend;



- c) whether conciliation can take place effectively in the absence of one or more of the parties;
- d) the likely prejudice to the other party of the panelist's ruling; and
- e) any other relevant factors.

14 How to determine whether a Panelist may conciliate a dispute

If it appears during conciliation proceedings that a jurisdictional issue has not been determined, the panelist must require the referring party to prove that the Council has the jurisdiction to conciliate the dispute through conciliation, provided that all jurisdictional issues requiring evidence may be deferred to arbitration.

15 Issuing of a certificate in terms of Outcome

A certificate of outcome, that 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 panelist and agreed to by the parties during the conciliation process.

16 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 or as ordered otherwise by a court of law.
- 2) No person, including a panelist, 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 unless as ordered by a court of law.

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

17 Conduct of con-arb in terms of Section 191(5A)

- 1) The Council must notify the parties in writing of a con-arb hearing at least fourteen (14) days prior the scheduled date, unless the parties agree to a shorter period or reasonable circumstances require a shorter period. The time period of fourteen (14) days runs from the date the notification is sent by the Council unless sent by registered mail in which case an additional seven (7) days must be allowed.
- 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 (7) 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 panelist must conduct the conciliation on the date specified in the notification issued in terms of 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 25
- 7) The provisions of these Rules that are applicable to conciliation and arbitration respectively, including rules on representation, apply with the changes required by the context, to the conciliation and arbitration parts of con-arb proceedings, respectively
- 8) If the arbitration does not proceed or is not concluded on the date specified in terms of the notice in sub-rule (1), the Secretary must schedule the matter for arbitration either in the presence of the parties or by notifying the parties in terms of Rule 24.

PART FOUR ARBITRATIONS

18 How to request arbitration

- 1) A party may request the Council to arbitrate a dispute by delivering a referral document 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).
- 3) The Council must accept, but may refuse to process a referral document until sub-rule (2) has been complied with.
- 4) This Rule does not apply to con-arb proceedings held in terms of Section 191(5A).

19 When must the parties file statements

- 1) The Secretary or a panelist 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; and

Handwritten signatures and initials at the bottom right of the page, including a large stylized 'M', 'DJ', and a signature that appears to be 'A. J. B.'.

- b) be delivered within the time-period specified in the notice referred to in sub-rule (1).
- 3) The panelist has discretion to continue with the matter despite non-compliance with a panelist's directive. However, any non-compliance may be taken into account when considering costs at the conclusion of the arbitration hearing.

20 When the parties elect to hold a pre-arbitration conference

- 1) The Secretary to Council or a panelist must 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 Panelist 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.
 - 4) A minute in terms of sub-rule (3) may also deal with any other matter 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 panelist and the Secretary of the Council within seven (7) days of the conclusion of the pre-arbitration conference.
 - 6) The Secretary or panelist may, after receiving a pre-arbitration minute -
 - a) enroll the matter for arbitration;
 - b) direct the parties to hold a further pre-arbitration conference; or
 - c) issue any other directive to the parties concerning the conduct of the arbitration.
 - 7) The parties to an arbitration may agree to hold a pre-arbitration conference in terms of sub-rule (2).
 - 8) If any other party fails to attend a pre-arbitration conference without a justifiable reason, the panelist 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 914) days before the scheduled set down of the matter.

21 When must the Secretary notify parties of an arbitration

The Secretary must notify the parties in writing of an arbitration hearing at least twenty-one (21) days prior to the scheduled date, unless the parties agree to a shorter period or reasonable circumstances require a shorter period. The time period of twenty-one (21) days runs from the date the notification is sent by the Council unless sent by registered mail in which case an additional seven (7) days must be allowed.

22 How to determine whether a Panelist may arbitrate a dispute

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



23 How to postpone a hearing

- 1) A schedule hearing should be finalized in three (3) sittings and 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 party 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 five (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 seven (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 five (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 panelist 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 panelist and all parties to the dispute.
- 7) If a panelist adjourns a hearing in terms of Rule 30, the party or parties responsible for the adjournment must bear the cost of the adjournment.

PART FIVE

RULES THAT APPLY TO CONCILIATIONS AND ARBITRATIONS AND CON-ARBS

24 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 premises of the trade union concerned.

25 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.

26 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.

27 How to join or substitute parties to proceedings

- 1) The Secretary or a panelist may, at any stage prior to the conclusion of an arbitration hearing, 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 panelist 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 commissioner 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 31.
- 5) When making an order in terms of sub-rule (2), a panelist 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 panelist 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. The application may be made at any stage prior to the conclusion of an arbitration hearing.
- 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.

28 How to correct the citation of a party

If a party to any proceedings has been incorrectly or defectively cited, the Secretary or panelist may of its own accord, by consent of the parties or on application and on notice to the parties concerned, correct the error or defect.

29 When the Council may consolidate disputes

The Secretary or a panelist may of its own accord, by consent of the parties or on application, and on notice to the parties concerned, consolidate more than one dispute so that the disputes may be dealt with in the same proceedings.

30 Disclosure of documents

- 1) At any time after the request for arbitration, either party may request a panelist to make an order as to the disclosure of relevant documents or other evidence.
- 2) The parties may agree on the disclosure of documents or other relevant evidence.

31 What happens if a party fails to attend arbitration proceedings before the Council

- 1) If a party to the dispute fails to attend or be represented at any arbitration proceedings before the Council, and that party-
 - a) had referred the dispute to the Council, a panelist may dismiss the matter by issuing a written ruling; or
 - b) had not referred the matter to the Council, the panelist may -
 - i) continue with the proceedings in the absence of that party; or
 - ii) adjourn the proceedings to a later date.
- 2) A panelist 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).
- 3) If a matter is dismissed, the Secretary must send a copy of the ruling to the parties within 14 days.



PART SIX APPLICATIONS

32 How to bring an application

- 1) This Rule applies to any -
 - a) application for condonation, joinder, substitution, variation, rescission, or postponement;
 - 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, and
 - d) other preliminary or interlocutory application.
- 2) An application must be brought at least fourteen (14) days prior to the date of the hearing 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, if available;
 - c) the relief sought;
 - d) the address at which the party delivering the document will accept delivery of all documents in the proceedings;
 - e) that any party that intends to oppose the matter must deliver a notice of opposition and answering affidavit within fourteen (14) 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 subparagraph (e); and
 - 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 arises 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

Two handwritten signatures are present at the bottom right of the page. The signature on the left is a stylized, cursive mark. The signature on the right is more complex, featuring a large, looped 'S' or 'B' shape followed by a vertical stroke.

- 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.
- 5) a) Any party opposing the application may deliver a notice of opposition and an answering affidavit within fourteen (14) 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 (7) 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.
- 7) The Secretary or panelist 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 panelist-
a) may dispense with the requirements of this Rule; and
b) may only grant an order against a party that has had reasonable 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 panelist may determine an application in any manner it deems fit, provided that the Secretary or the Panelist informs the parties of how the process will be conducted and gives the parties an opportunity to be heard.

33 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 (14) 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 panelist, which has the effect of a final order, will be regarded as a ruling for the purposes of this rule.

Handwritten signatures and initials at the bottom right of the page. There are two distinct signatures, one appearing to be 'LJ' and the other a more complex cursive signature.

**PART SEVEN
INQUIRY IN TERMS OF SECTION 188A**

34 How to request an inquiry by arbitrator in terms of Section 188A

- 1) An employer requesting the Council to conduct an inquiry must do so by delivering a completed LRA Form G6 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 inquiry by arbitrator 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
CHAIRING OF DISCIPLINARY HEARING IN TERMS OF PSCBC RESOLUTION 1/2003**

35 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 inquiry by arbitrator 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 NINE GENERAL

36 Condonation for failure to comply with the Rules

- 1) The Secretary or a panelist may condone any failure to comply with any provision of these Rules, on good cause shown.
- 2) In exercising its powers and performing its functions the Secretary or a panelist may act in such a manner as it deems expedient in the circumstances in order to achieve the objects of the Act. In doing so it shall have regard to substance rather than form, save where the Act provides otherwise.

37 Recordings of Council proceedings

- 1) The Council must keep a record of -
 - a) all processes except conciliations, unless otherwise stated in these Rules;
 - b) any arbitration award or ruling made by a panelist.
- 2) The record must be kept by means of a digital recording and, if practically possible, also by legible notes.
- 3) A party may request a copy of the record or a portion of a record kept in terms of sub-rule (2), on payment of the costs where applicable.

38 How to have a subpoena issued

- 1) Any party who requires the Secretary or a panelist 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. The Council's decision must be made in writing and delivered when issuing the subpoena.
- 3) An application in terms of sub-rule (1) must be filed with the Secretary at least fourteen (14) days prior to the arbitration hearing, or as directed by the panelist hearing the arbitration.

Handwritten signatures and initials at the bottom right of the page, including a large stylized 'S' and other illegible marks.

- 4) The Secretary or panelist 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 seven (7) days in which to comply with the subpoena;
 - c) not satisfied that the party requesting the subpoena has paid the prescribed witness fees and, reasonable travel costs and subsistence expenses 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 issuing of the subpoena or by the Sheriff, at least seven (7) days prior to the scheduled date of the arbitration; and
 - b) and if so directed by the panelist, accompanied by proof of 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 and subsistence expenses.

38A Expert witnesses

A party intending to call an expert witness shall give seven (7) days, prior to the hearing, notice thereof to the Secretary and the other party to the dispute together with a summary of the proposed evidence of such witness, any document on which the witness will rely during evidence and the basis on which the witness is regarded to be an expert to enable the other party to consider the summary and obviate the need for any postponement.

39 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 a witness is an employee of the State, such witness shall not be paid an allowance for the time 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 issuing of the subpoena was not requested by a party or if the Secretary waives the requirement to pay witness fees in terms of Section 142(7)(c).
- 3) Despite sub-rule (1), the panelist may, in appropriate circumstances, order that a witness receives no fee or reasonable travel costs and subsistence expenses or only part of such fees or expenses.



40 Order of costs in an arbitration

- 1) In any arbitration proceedings, the panelist may make an order for the payment of costs according to the requirements of law and fairness and when doing so should have regard to -
 - a) the measure of success that the parties achieved;
 - b) considerations of fairness that weigh in favour of or against granting a cost order;
 - c) any with prejudice offers that were made with a view to settling the dispute;
 - d) whether a party or the person who represented that party in the arbitration proceedings acted in a frivolous and vexatious manner –
 - i) by proceeding with or defending the dispute in the arbitration proceedings, or
 - ii) in its conduct during the arbitration proceedings;
 - e) the effect that a cost order may have on a continued employment relationship;
 - f) any agreement concluded between the parties to the arbitration concerning the basis on which costs should be awarded;
 - g) the importance of the issues raised during the arbitration to the parties as well as to the labour community at large;
 - h) any other relevant factor.
- 2) A panelist may make an award of costs in favour of a party who is represented in arbitration by a person contemplated by rule 25(1)(a) in respect of reasonable disbursements actually incurred in the conduct of its case in the arbitration. A panelist who makes an award in terms of this provision must specify clearly the items and amounts in respect of which costs are ordered.
- 3) A panelist may make an award of costs in respect of the legal fees of a party that is represented in arbitration by a legal practitioner, only if the other parties to the arbitration were represented by a legal practitioner.
- 4) An award of costs for costs in terms of sub-rule (3) must be in the amount of –
 - (a) in respect of the first day of an arbitration (including any arbitration concluded in a single hearing) – R6 000-00 (VAT inclusive);
 - (b) in respect of each additional day of an arbitration – R4 000-00 (VAT inclusive).
- 5) The Secretary may appoint taxing officers to determine any dispute that may arise from any award of costs in terms of this Rule.
- 6) Any dispute concerning an award of costs must be submitted on LRA Form 7.17 to which any relevant documentation must be annexed.



41 Certification of arbitration awards

- 1) An application to have an arbitration award certified must be made on -
 - a) LRA Form 7.18A in respect of an award in arbitration conducted under the auspices of the GPSSBC.
- 2) Any arbitration award that has been certified in terms of Section 143 of the Act that -
 - a) orders the payment of an amount of money may be enforced by execution against the property of the employer party by the Sheriff of the court in the magisterial district where the employer party resides, or conducts business;
 - b) orders the performance of an act other than the payment of money may be enforced by way of contempt proceedings instituted in the Labour Court.
- 3) For the purposes of sub-rule (2), an arbitration award includes an award of costs in terms of Section 138(10), a taxed bill of costs in respect of an award of costs and an arbitration fee charged in terms of Section 140(2).

42 Definitions

Any expression in these Rules that is defined in the Labour Relations Act, 1995 (Act 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 resolution procedure.

'Act' means the Labour Relations Act, 1995 (Act 66 of 1995), and includes any regulation made in terms of that Act;

'Association' means any unincorporated body of persons;

'Commission' means the Commission for Conciliation, Mediation and Arbitration established by Section 112 of the Act;

'Con-arb' means proceedings held in terms of Section 191(5A);

'Council' means the General Public Service Sectoral Bargaining Council (GPSSBC);

'Deliver' means serve on other parties and file with the Council;

'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;

'Party' means any party to proceedings before the Council and may be organizations and/ or individuals;

'Public holiday' means a public holiday referred to in Section 1 of the Public Holidays Act, 1994 (Act 36 of 1994);

'Rules' means these Rules and includes any footnote to a rule;



'Secretary' means the Secretary of the Council;

'Panellist' means a person appointed in terms of this rules to handle disputes as conciliators or arbitrators;

'Serve' means to serve in accordance with Rule 5 and 'service' has a corresponding meaning;

'Working day' means Monday, Tuesday, Wednesday, Thursday and Friday.

A handwritten signature, possibly reading 'L', located at the bottom left of the page.A handwritten signature, possibly reading 'D. A. O.', located at the bottom right of the page.