

GRIEVANCE PROCEDURE

Item B-HR (13a-2003) GRIEVANCE PROCEDURE AND DISCIPLINARY PROCEDURE
MC 14.08.2003 AGREEMENTS

RESOLVED:

1. **That** the report by die Executive Director: Human Resource Management and Development with regard to the Grievance Procedure and Disciplinary Procedure Agreements **BE NOTED**.
2. **That** it **BE NOTED** that the Grievance Procedure and Disciplinary Procedure Agreements attached as Annexures "A" and "B" to the report **CAME INTO EFFECT** from 1 July 2003.

SCHEDULE

**THE SOUTH AFRICAN LOCAL GOVERNMENT
BARGAINING COUNCIL**

(hereinafter referred to as “or the “Council”)

**GRIEVANCE PROCEDURE COLLECTIVE
AGREEMENT**

In accordance with the provisions of the Labour Relations Act, 1995 made and entered into by and between the:-

SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION
(hereinafter referred to as “SALGA”, the Employers’ Organisation)

and

INDEPENDENT MUNICIPAL AND ALLIED TRADE UNION
(hereinafter referred to as “IMATU”)

and

SOUTH AFRICAN MUNICIPAL WORKERS UNION
(hereinafter referred to as “SAMWU”)

(IMATU and SAMWU will together be referred to as the “Trade Unions”)

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1. SCOPE OF AGREEMENT

1.1 The terms of this Agreement shall be observed in the Local Government Undertaking in the Republic of South Africa by all employers and by all employees who falls within the registered scope of the Council.

1.2 Clause 3.1 and clause 7.4 shall not apply to non-parties.

2. DEFINITIONS

2.1 Any reference to days herein is a reference to working days.

2.2 All expressions used in this agreement which are defined in the labour Relations Act, 1995, shall bear the same meaning as in the Act and unless the contrary intention appears, words importing the masculine gender shall include the feminine.

3. PERIOD OF OPERATION

3.1 This Agreement shall come into operation in respect of the parties to the Agreement, on 26 March 2003 and shall terminate on 30 June 2005. Any action that commenced prior to the effective date shall be regulated by the terms of the then existing code.

3.2 This Agreement shall come into operation in respect of non-parties, on the date to be determined by the Minister of Labour and shall terminate on 30 June 2005.

4. INTENT

- 4.1 The purpose of this procedure is to establish a common and uniform procedure for the management of employee grievances and to replace all existing procedures and regulations.
- 4.2 This procedure is a product of collective bargaining and the application thereof is peremptory for parties.
- 4.3 The procedure shall be deemed to be a condition of service.
- 4.4 The objectives of this grievance procedure are to ensure fair play, to resolve problems as quickly as possible and to deal with conflict through procedural means.
- 4.5 No employee shall suffer victimisation or occupational prejudice as a result of lodging a grievance.
- 4.6 This procedure shall address all grievances excluding those grievances for which a specific or particular procedure is provided.

5. PROCEDURE

5.1 STEP ONE: IMMEDIATE SUPERIOR

- 5.1.1 The lodging of a grievance shall, except in exceptional circumstances, take place within ten (10) days from the time the employee first becomes aware of the matter that gave rise to such grievance.
- 5.1.2 An aggrieved employee or group of employees must lodge in writing with his immediate superior a grievance on the prescribed form setting out the complaint and the desired

result. Such an employee may, if he so wishes, be assisted by a shop steward, fellow employee or union official. Should the grievance concern the conduct of the employee's immediate superior, the employee may proceed directly to Step Two provided that he submits the grievance on the prescribed form.

- 5.1.3 The immediate superior shall endeavour, in consultation with the affected employee(s), to resolve the grievance within five (5) days of the grievance having been referred to him and shall inform the employee of the outcome in writing.

5.2 STEP TWO: HEAD OF DEPARTMENT

- 5.2.1 If a grievance has not been resolved to the satisfaction of the aggrieved employee or group of employees, the immediate superior shall refer the matter in writing within five (5) days to the Head of Department or his nominee.
- 5.2.2 The Head of Department or his nominee shall arrange a meeting to consult and hold discussions with the affected parties in an attempt to achieve a resolution. The employee may be assisted by a fellow employee, shop steward or union official at such a meeting and the immediate superior may also be required to attend.
- 5.2.3 The Head of Department or his nominee shall endeavour to resolve the grievance within five (5) days of the grievance

being referred and shall inform the employee of the outcome in writing.

5.3 STEP THREE: MUNICIPAL MANAGER

- 5.3.1 If the grievance has not been resolved to the satisfaction of the aggrieved employee or group of employees, the Head of Department or his nominee shall refer it to the Municipal Manager or his nominee within (5) days in writing who shall hold an enquiry into the grievance, attended by the employee, his representative, if required, and any other persons who, in the opinion of the Municipal Manager or his nominee should attend.
- 5.3.2 The Municipal Manager or his nominee shall hear details of the grievance including proposals to resolve the issue and shall endeavour to reach a decision within five (5) days.
- 5.3.3 The Municipal Manager or his nominee shall inform the employee in writing of the outcome of the hearing as envisaged in clause 5.3.2 above, and such decision shall be final in terms of this procedure.
- 5.3.4 If the grievance has not been resolved to the satisfaction of the aggrieved party, that party may refer the grievance to the South African Local Government Bargaining Council for adjudication.

6. DISPUTE ABOUT IMPLEMENTATION AND APPLICATION OF THIS AGREEMENT

- 6.1 Any person or Party may refer a dispute about the interpretation or application of this collective agreement to the Central Council of the SALGBC.
- 6.2 In the event of uncertainty on the part of the referring Party as to whether a dispute should be referred to a Division or the Central Council, or after a dispute has been referred to a Division, a Party to such Division disputes the jurisdiction of such Division, the dispute shall be referred to the Executive Committee which shall determine the appropriate jurisdiction.
- 6.3 The General Secretary or Regional Secretary as the case may be, shall investigate the dispute or cause the dispute to be investigated and attempt to resolve the dispute by issuing a directive, and in the event of a dispute not being resolved:
- 6.3.1 appoint a conciliator from the appropriate panel of conciliators, (doing so as far as possible on a rotational basis) or if the dispute remains unresolved;
 - 6.3.2 refer the dispute to arbitration.
- 6.4 If a conciliator is appointed, the relevant General Secretary or Regional Secretary shall decide the date, time and venue of the conciliation meeting and shall serve notices of these particulars on the Parties to the dispute.

- 6.5 If the dispute is referred to arbitration, the relevant General Secretary or Regional Secretary shall appoint an arbitrator from the appropriate panel of arbitrators, doing so as far as possible on a rotational basis.
- 6.6 The relevant General Secretary or Regional Secretary, in consultation with the arbitrator, shall decide the date, time and venue of the arbitration hearing.
- 6.7 The arbitrator shall –
- 6.7.1 endeavour to conciliate the dispute unless the parties to the dispute advise the arbitrator that the dispute has been properly conciliated; and
 - 6.7.2 if the dispute remains unresolved, resolve the dispute through arbitration.
- 6.8 The arbitrator may make any appropriate arbitration award in terms of the Act that gives effect to the collective agreement.

7. EXEMPTIONS

- 7.1 Any person bound by this Agreement shall be entitled to apply for exemption from this Agreement.
- 7.2 All applications for exemption from any provisions of this agreement shall be in writing and lodged with the General Secretary. Such applications shall contain:-
- 7.2.1 all material details of the Applicant;
 - 7.2.2 the exact collective agreement or provisions of a collective agreement from which the Applicant seeks exemption;

- 7.2.3 detailed grounds on which such exemption is sought taking into consideration the criteria specified in clause 7.7 hereunder;
- 7.3 The Executive Committee shall consider all applications from a party/non-party to this Agreement (which shall include the members of such party), and may, subject to clause 7.7, and on giving its reasons therefore, grant exemption on any conditions and for any period it considers appropriate.
- 7.4 A party aggrieved by a decision of the Executive Committee may appeal to the Council who shall consider the Application subject to clause 7.7 and on giving its reasons therefore, may grant an exemption on any conditions and for any period it considers appropriate. The decision of the Council shall be final.
- 7.5 All applications of Appeal from non-parties shall be referred to the Independent Exemptions Body established by the Council in terms of clause 7.11 hereunder.
- 7.6 The Independent Exemptions Body shall consider all such applications in a manner it considers appropriate to determine the applications fairly and quickly, which may include the hearing of evidence and arguments.
- 7.7 When considering an application for exemption, an appeal against an Executive Committee decision or an application for the withdrawal of a certificate of exemption, the Council or the Independent Exemptions Body, as the case may be, shall take into account the following (the order not indicating any form of priority).

- (a) any written and/or verbal substantiation provided by the applicant;
 - (b) fairness to the employer, its employees and other employers and the employees in the industry;
 - (c) whether an exemption, if granted would undermine this agreement or the collective bargaining process;
 - (d) unexpected economic hardship occurring during the currency of this agreement and job creation and/or loss thereof;
 - (e) the infringement of basic conditions of employment rights;
 - (f) the fact that a competitive advantage might be created by the exemption;
 - (g) comparable benefits or provisions where applicable;
 - (h) the applicant's compliance with other statutory requirements such as the Compensation for Occupational Injuries and Diseases Act 130 of 1993, Basic Conditions of Employment Act 75 of 1997, Employment Equity Act 55 of 1998, Skills Development Act 97 of 1998, Skills Development Levies Act 9 of 1999, or Unemployment Insurance Act 63 of 2001; or
 - (i) any other factor which is considered appropriate.
- 7.8 Having made a decision to grant or refuse an exemption application, the Independent Exemptions Body shall advise the applicants and the Council within 14 days of its decision, giving full reasons. The decision of the Independent Exemptions body shall be final.
- 7.9 The Council shall issue to every person granted an exemption in terms of this clause a certificate of exemption setting out:

- (a) the applicant's name,
- (b) the provisions of the agreement from which exemption has been granted,
- (c) the conditions relating to the exemption, and
- (d) the period for which the exemption shall operate.

7.10 The Council may withdraw a certificate of exemption granted to a party to this agreement by giving one month's notice to the party concerned, or may, in the case of a non-party, apply to the Independent Exemptions Body for the withdrawal of a certificate granted.

7.11 The Independent Exemptions Body shall be constituted on an ad hoc basis and shall be appointed by the SALGBC from its panel of arbitrators set up in terms of its constitution.

SIGNED BY THE PARTIES AT DURBAN THIS 5TH DAY NOVEMBER 2003

MEMBER OF THE COUNCIL
(REPRESENTING SALGA – S SOMOYO)

MEMBERS OF THE COUNCIL
(REPRESENTING IMATU – C DUNSTAN)

MEMBERS OF COUNCIL
(REPRESENTING SAMWU – P MASHISHI)

GENERAL SECRETARY OF THE
COUNCIL – S GOVENDER

Fit Letterhead of Municipality

GRIEVANCE FORM

NAME OF DEPARTMENT:															
PERSONAL DETAILS															
To be completed by employee/s (if more than one employee, attach separate sheet)	Name of Employee <i>(Print)</i> :														
	Employee No.:														
	Nature of Grievance:														
	Desired Solution:														
Signature of Employee:							Date:	C	C	Y	Y	M	M	D	D
STEP 1															
To be completed by immediate superior within 5 working days of receipt of grievance	Name <i>(Print)</i> :														
	Date Received:														
	Results of Discussions with Employee:														

Signature of Immediate Superior:		Date:	C	C	Y	Y	M	M	D	D	
	Comments of Employee:										
	Signature of Employee:		Date:	C	C	Y	Y	M	M	D	D

Cut / Tear Along Dotted Line

To be completed by Immediate Superior and handed to Aggrieved Employee	CONFIRMATION OF RECEIPT OF GRIEVANCE FORM										
	Name <i>(Print)</i> :										
	Service No.:										
	Name of Immediate Superior:										
	Signature:		Date:	C	C	Y	Y	M	M	D	D

STEP 2

To be completed by the Head of Department or Nominee Within 5 working days of receipt	Name (<i>Print</i>):												
	Date Received:												
	Results of Grievance Investigation and Decision of Head of Department or Nominee:												
	Signature of Head of Department or Nominee:				Date:	C	C	Y	Y	M	M	D	D
	Comments of Employee:												
Signature of Employee:				Date:	C	C	Y	Y	M	M	D	D	
Name of Shop Steward or Union Official:													
Signature of Shop Steward or Union Official:				Date:	C	C	Y	Y	M	M	D	D	

STEP 3

To be completed by Municipal Manager or Nominee within 5 working days of receipt	Name (<i>Print</i>):												
	Date Received:												
	Results of Grievance Investigation and Decision of Municipal Manager or Nominee:												
	Signature of Municipal Manager or Nominee:				Date:	C	C	Y	Y	M	M	D	D
	Name of Shop Steward or Union Official:												
Signature of Shop Steward or Union Official:				Date:	C	C	Y	Y	M	M	D	D	