

*Regulation Gazette*

**No. 11116**

*Regulasiekoerant*

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**22 May  
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**No. 43343**



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**GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS**

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**DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT****NO. R. 580****22 MAY 2020****DEBT COLLECTORS ACT, 1998****REGULATIONS RELATING TO DEBT COLLECTORS, 2003: AMENDMENT**

The Minister of Justice and Correctional Services has, under section 23 of the Debt Collectors Act, 1998 (Act No. 114 of 1998), and after consultation with the Council for Debt Collectors, made the regulations in the Schedule.

**SCHEDULE****Definition**

1. In these regulations "the Regulations" means the regulations published by Government Notice No. R. 185 of 7 February 2003, as amended by Government Notices Nos. R. 1623 of 7 November 2003, R. 741 of 29 July 2005, R. 1044 of 2 November 2007, as corrected by Government Notice No. R. 1093 of 23 November 2007 and amended by Government Notices Nos. R. 1120 of 27 November 2009, R. 162 of 1 March 2011, R. 623 of 10 August 2012, R. 381 of 7 June 2013, R. 1272 of 23 December 2015 and R. 1141 of 27 October 2017.

**Amendment of regulation 11 of the Regulations**

2. Regulation 11 of the Regulations is hereby amended by the substitution for the expression "R965" of the expression "R1023,00".

**Substitution of Annexure B to the Regulations**

3. The following Annexure is hereby substituted for Annexure B to the Regulations:

**"ANNEXURE B  
Expenses and fees  
[Regulation 11]**

**Note: The total amount to be recovered from the debtor in respect of items 1 to 7 of the Annexure shall not exceed the capital amount of the debt or R1023, 00, whichever is the lesser.**

| Item  | Description  | Amount   |
|-------|--|--|
| 1.(a) | Necessary ordinary letter, registered letter, facsimile or e-mail:   | R21,00 (and in the case of a registered letter, the costs of the registration fee to be added).  |
| 1.(b) | Registered letter (section 57 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944)):  | The amount as prescribed from time to time in item 8 of Annexure 2, Table A, Part II of the Rules Regulating the Conduct of the Proceedings of the Magistrates' Courts of South Africa.              |
| 1.(c) | Necessary electronic communication, other than facsimile or e-mail, (per electronic communication):  | R3,00 (maximum of ten electronic communications per month).  |
| 2.    | Necessary phone call, which is not a consultation (per call):  | R21,00.  |
| 3.    | Other necessary expenses not specifically provided for, a total amount of:   | R21,00.  |
| 4.(a) | Acknowledgement of debt and undertaking to pay debt in terms of section 57 or section 58 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944) (including the necessary consultation with debtor): | The amount as prescribed from time to time in items 9 and 10 of Annexure 2, Table A, Part II of the Rules Regulating the Conduct of the Proceedings of the Magistrates' Courts of South Africa.      |
| 4.(b) | Original documents signed by the debtor under item 4(a) at the debtor's residence or place of work:  | R210,00.   |
| 4.(c) | Necessary registered credit bureau search:   | R14,00 (maximum of four searches per month).   |
| 5.    | At the request of the debtor, the drawing up and furnishing of a settlement account, other than the six monthly settlement account:  | R41,00.  |
| 6.    | Correspondence received and attended to:   | R11,00.  |
| 7.    | Necessary consultation with debtor:  | R52,00.  |
| 8.    | Attending taxation:  | R82,00.  |
| 9.    | On receipt of an instalment (one or more) in redemption of the debt inclusive of instalments made directly to the client:  | A fee of 10% of the instalment received, subject to a maximum amount of R509,00. No additional fee shall be charged for any attendance in connection with the receipt or payment of any instalment." |

**DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING****NO. R. 580****22 MEI 2020****WET OP SKULDINVORDERAARS, 1998  
REGULASIES BETREFFENDE SKULDINVORDERAARS, 2003: WYSIGING**

Die Minister van Justisie en Korrektiewe Dienste het kragtens artikel 23 van die Wet op Skuldinvorderaars, 1998 (Wet No. 114 van 1998), en na oorleg met die Raad vir Skuldinvorderaars, die regulasies in die Bylae uitgevaardig.

**BYLAE****Woordomskrywing**

1. In hierdie regulasies beteken "die Regulasies" die regulasies afgekondig by Goewermentskennisgewing No. R. 185 van 7 Februarie 2003, soos gewysig deur Goewermentskennisgewings Nos. R. 1623 van 7 November 2003, R. 741 van 29 Julie 2005, R. 1044 van 2 November 2007, soos reggestel deur Goewermentskennisgewing No. R. 1093 van 23 November 2007 en gewysig deur Goewermentskennisgewings Nos. R. 1120 van 27 November 2009, R. 162 van 1 Maart 2011, R. 623 van 10 Augustus 2012, R. 381 van 7 Junie 2015, R. 1272 van 23 Desember 2015 en R. 1141 van 27 Oktober 2017.

**Wysiging van regulasie 11 van die Regulasies**

2. Regulasie 11 van die Regulasies word hierby gewysig deur die uitdrukking "R870" deur die uitdrukking "R1023,00" te vervang.

**Vervanging van Aanhangel B tot die Regulasies**

3. Aanhangel B tot die Regulasies word hierby deur die volgende Aanhangel vervang:



**"AANHANGSEL B**  
**Uitgawes en gelde**  
**[Regulasie 11]**

**Let wel:** Die totale bedrag wat van 'n skuldenaar ingevolge items 1 tot 7 van die Aanhangsel gevorder staan te word, mag nie die kapitale bedrag van die skuld of R965, 00, na gelang van watter die minste is, oorskry nie.

| Item  | Beskrywing   | Bedrag  |
|-------|--|---|
| 1.(a) | Noodsaaklike gewone brief, geregistreerde brief, faksimilee of e-pos:  | R21,00 (en in die geval van 'n geregistreerde brief, die koste vir registrasie bykomend).   |
| 1.(b) | Geregistreerde brief (artikel 57 van die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944)):   | Die bedrag soos van tyd tot tyd voorgeskryf in item 8 van Aanhangsel 2, Tabel A, Deel II van die 'Rules Regulating the Conduct of the Proceedings of the Magistrates' Courts of South Africa'.                    |
| 1.(c) | Noodsaaklike elektroniese kommunikasie, anders as faksimilee of e-pos (per elektroniese kommunikasie):   | R3,00 (maksimum van tien elektroniese kommunikasies per maand).   |
| 2.    | Noodsaaklike telefoonoproep, wat nie 'n konsultasie daarstel nie (per oproep):   | R21,00.   |
| 3.    | Ander noodsaaklike uitgawes waarvoor daar nie spesifiek voorsien is nie, 'n totale bedrag van:   | R21,00.   |
| 4.(a) | Erkenning van skuld en onderneming om skuld ingevolge artikel 57 of artikel 58 van die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), (insluitende nodige konsultasie met skuldenaar) te betaal: | Die bedrag soos van tyd tot tyd voorgeskryf in items 9 en 10 van Aanhangsel 2, Tabel A, Deel II van die 'Rules Regulating the Conduct of the Proceedings of the Magistrates' Courts of South Africa'.             |
| 4.(b) | Oorspronklike dokumente deur die skuldenaar onder item 4(a) by die skuldenaar se woning of werksplek geteken:  | R210,00.  |
| 4.(c) | Noodsaaklike geregistreerde kredietburo soek:  | R14,00 (maksimum van vier soeke per maand).   |
| 5.    | Op versoek van die skuldenaar, die opstel en verskaffing van 'n ander afrekeningstaat, as die sesmaandelikse afrekeningstaat:  | R41,00.   |
| 6.    | Korrespondensie ontvang en hanteer:  | R11,00.   |
| 7.    | Noodsaaklike konsultasie met skuldenaar:   | R52,00.   |
| 8.    | Bywoning van taksasie:   | R82,00.   |
| 9.    | By ontvangs van 'n paalement (een of meer) ter delging van die skuld, insluitend betalings direk aan kliënt gemaak:  | Gelde van 10% van die paalement ontvang, onderhewig aan 'n maksimum bedrag van R509,00. Geen bykomende fooi sal gehef word vir enige verskyning in verband met die ontvangs of betaling van enige paalement nie." |

DEPARTMENT OF LABOUR

NO. R. 581

22 MAY 2020

LABOUR RELATIONS ACT, 1995

CORRECTION NOTICE

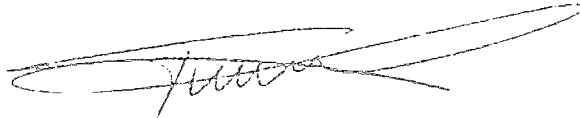
**BARGAINING COUNCIL FOR THE CIVIL ENGINEERING INDUSTRY (BCCEI):  
EXTENSION OF DISPUTE RESOLUTION COLLECTIVE AGREEMENT TO  
NON-PARTIES**

The following correction to *Government Notice* No. R. 507 appearing in *Government Gazette* No. 43289 of 8 May 2020 is hereby published for general information:

1. Please replace the entire published Notices and Schedule with the attached signed Notices and Schedule.

**LABOUR RELATIONS ACT, 1995****BARGAINING COUNCIL FOR THE CIVIL ENGINEERING INDUSTRY (BCCEI):  
EXTENSION OF DISPUTE RESOLUTION COLLECTIVE AGREEMENT TO NON-  
PARTIES**

I, **THEMBELANI WALTERMADE NXESI**, Minister of Employment and Labour hereby in terms of section 32(2) of the Labour Relations Act, 1995, declare that the Collective Agreement which appears in the Schedule hereto, which was concluded in the **Bargaining Council for the Civil Engineering Industry (BCCEI)** and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the Collective Agreement, shall be binding on the other employers and employees in that Industry, with effect from the date of publication of this notice and for the period ending 31 August 2023.

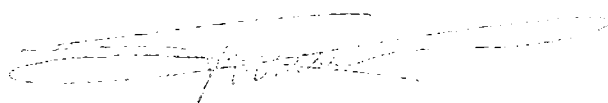


MR TW NXESI, MP  
MINISTER OF EMPLOYMENT AND LABOUR  
DATE: 29/04/2020

**UMTHETHO WOBUDLELWANO KWEZABASEBENZI KA - 1995**

**UMKHANDLU WOKUXOXISANA PHAKATHI KWABAQASHI NABASEBENZI  
EMBONINI YONJINIYELA BEZOKWAKHIWA KWEMIGWAQO NAMABHULOHO:  
UKWELULWA KWESIVUMELWANO SOKUXAZULULWA KWEZIMPIKISWANO,  
SELULELWA KILABO ABANGEYONA INGXENYE YESIVUMELWANO**

Mina, **THEMBELANI WALTERMADE NXESI**, onguNgqongqoshe Wezemisebenzi Nezabasebenzi, ngokwesigaba 32(2) soMthetho Wobudlelwano Kwezabasebenzi, ka-1995, ngazisa ukuthi isivumelwano sabaqashi nabasebenzi esitholakala kwiSheduli yesiNgisi exhunywe lapha, esenziwa **uMkhandlu Wokuxoxisana phakathi Kwabaqashi Nabasebenzi Embonini Yonjiniyela Bezokwakhiwa Kwemigwaqo Namabhuloho**, futhi ngokwesigaba 31 soMthetho Wobudlelwano Kwezabasebenzi, ka-1995 esibopha labo abasenzayo, sizobopha bonke abanye abaqashi nabasebenzi kuleyomboni, kusukela ngosuku lokushicilelwa kwalesisaziso kuze kube mhlaka 31 kuNcwaba 2023.



**MNUMZANE TW NXESI, MP**  
**UNGQONGQOSHE WEZEMISEBENZI NEZABASEBENZI**  
**USUKU: 29/04/2020**

## **SCHEDULE**

### **BARGAINING COUNCIL FOR THE CIVIL ENGINEERING INDUSTRY**

#### **DISPUTE RESOLUTION COLLECTIVE AGREEMENT**

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

#### **Employers' Organisation**

Consolidated Employers Organisation (CEO)

South African Forum of Civil Engineering Contractors (SAFCEC)

**(Hereinafter referred to as the "employer" or the "employers' organisations")**

**of the one party and the-**

#### **Trade Unions**

Building, Construction and Allied Workers Union (BCAWU)

National Union of Mineworkers (NUM)

**(Hereinafter referred to as the "employees" or the "trade unions") of the other**

**part, being the parties to the Bargaining Council for the Civil Engineering**

**Industry), to publish the Dispute Resolution Collective Agreement**

#### **APPLICATION AND INTERPRETATION OF AGREEMENT**

##### **1. Application of the agreement**

##### **1.1 This agreement binds:**


- (a) All employees in the Civil Engineering industry that are members of the employers' organisations that are party to this agreement; and
- (b) All employees in the bargaining unit, employed in the Civil Engineering industry who are members of the trade unions that are party to this agreement.

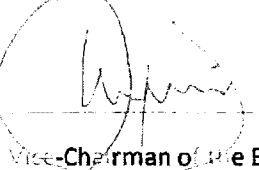
- 1.2 This Agreement must be applied in the jurisdiction of Bargaining Council for the Civil Engineering Industry throughout the Republic of South Africa.
- 1.3 Except as otherwise provided for in this Agreement, the BCCEI established a Committee to deal with applications for exemption from the provisions of the BCCEI's Collective Agreements.
- 1.4 This agreement applies to learners, only insofar as it is not inconsistent with the Skills Development Act, 1998.

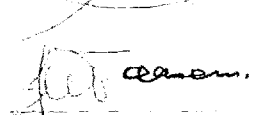
**2. Period of operation of agreement: -**

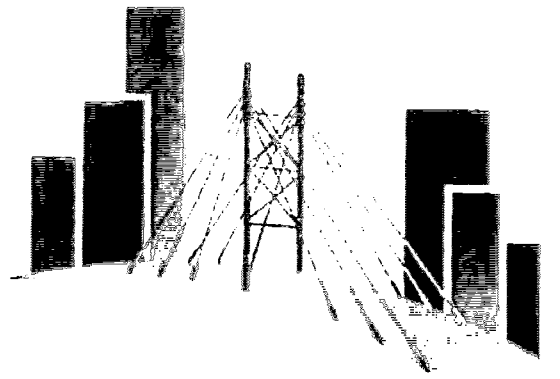
- 2.1 This agreement becomes binding on the employers and employees – refer to sub-clause (1.1), once it is extended by the Honourable Minister of Labour, in terms of Section 32 of the Act 66 of 1995, from a date determined by the Minister of Labour;
- 2.2 This agreement becomes binding on the employers and employees referred to in sub-clause 1.1 to 1.4 once it is extended to non-parties by the Honourable Minister of Labour and shall remain in force until 31 August 2023.

SIGNED AT BEAUFORTVIEW, for and on behalf of the parties, this day of 15/08/ 2019

  
\_\_\_\_\_  
Chairman of the BCCEI

  
\_\_\_\_\_  
Vice-Chairman of the BCCEI

  
\_\_\_\_\_  
General Secretary of the BCCEI



# BCCEI

Bargaining Council for the  
Civil Engineering Industry

**DISPUTE RESOLUTION COLLECTIVE AGREEMENT**

**for the**

**CIVIL ENGINEERING INDUSTRY**

4-2.2

**BARGAINING COUNCIL FOR THE CIVIL ENGINEERING INDUSTRY  
DISPUTE RESOLUTION COLLECTIVE AGREEMENT**

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

**Consolidated Employer's Organisation (CEO)**

**South African Forum of Civil Engineering Contractors (SAFCEC)**

(hereinafter referred to as the "employers" or the "employers' organisations"), of the one part,

and the

**Building Construction and Allied Workers Union (BCAWU)**

**National Union of Mine Workers (NUM)**

(hereinafter referred to as the "employees" or the "trade unions"), of the other part

Being the parties to the Bargaining Council for the Civil Engineering Industry.

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T.G.M f.



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**Annexure B – Guidelines for the levying of fines**

T. G.m <sup>L.V</sup> /

## CHAPTER 1

### SCOPE AND APPLICATION OF AGREEMENT

#### 1.1 Scope of application of agreement

This agreement is applicable in the Bargaining Council for the Civil Engineering Industry throughout the Republic of South Africa and binds

- (a) all employers in the civil engineering industry that are members of the employers' organisations that are party to this agreement;
- (b) all employees in the bargaining unit, employed in the civil engineering industry, who are members of the trade union that is party to this agreement;
- (c) apprentices or learners in the civil engineering industry, but only to the extent to which it is not inconsistent with the provisions of the Skills Development Act 97 of 1998 or any contract entered into or any conditions fixed hereunder;
- (d) trainees under training in terms of section 19 of the Skills Development Act 97 of 1998, but only in so far as it is not inconsistent with the provisions of the Act or any conditions fixed there under; and
- (e) in the event that this agreement is extended to non-parties in terms of section 32 of the Act, to all employees and all employers in the civil engineering industry.

#### 1.2 Period of operation of this agreement

This Agreement shall come into operation on such date signed by the parties to this agreement, or as fixed by the Honorable Minister of Labour in terms of section 32 of the Act and shall remain in force until 31 August 2023 or until withdrawn or amended.

#### 1.3 Definitions

Unless the context of this agreement indicates otherwise, any expressions, words or phrases used in this agreement shall have the same meaning as defined in the Labour Relations Act 66 of 1995 and any reference to an Act shall include any amendments to such Act and unless the contrary intention appears, words importing the masculine gender shall include females; further, unless inconsistent with the context-

**'Act'** means the Labour Relations Act of 1995 66 of 1995 as amended, and includes any regulation made in terms of that Act.

**'Agreement enforcement disputes'** refer to those disputes emanating from the Council's collective agreements.

**'Associations'** means any unincorporated body or persons.

T.G.M. L.V

**'DRC'** shall mean the Council's 'Dispute Resolution Centre'.

**'Collective agreement'** includes –

- (i) any collective agreement signed under the auspices of the Council; and
- (ii) the rules of any fund or scheme established by the Council.

**'Commission'** or **'CCMA'** means the Commission for Conciliation, Mediation and Arbitration (CCMA), established in terms of Section 112 of the Act.

**'Con-arb'** means proceedings held in terms of Section 191(5A) of the Act.

**'Council'** means the Bargaining Council for the Civil Engineering Industry registered in terms of Section 29 of the Act.

**'Commissioner'** means an accredited individual appointed by the Council to resolve disputes.

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

**'Designated agent'** means any person appointed as a designated agent in terms of section 33(1) of the Act.

**'Dispute'** includes an alleged dispute and means any situation where –

- (i) two or more parties are unable to reach agreement on a matter of mutual interest between them, and one or more of those parties advise the Council in writing that they are in dispute; or
- (ii) the Council by way of its designated agents or any other person so appointed by the Council, declares a dispute against an Employer and/or Employee for failure to comply with the provisions of one or more of the Council's Agreements. Notification of declaration of dispute shall be contained in a compliance order issued to the employer and/or employee in respect of the identified contraventions; or
- (iii) any dispute in terms of the Labour Relations Act 66 of 1995 which must be referred to the Council.

**'Employer'** means any person, including a temporary employment service (TES) as defined in section 198(1) of the Act, who employs or provides work to another person, other than a volunteer or an independent contractor, and who remunerates or undertakes, expressly or tacitly, to remunerate that person and who permits that other person to assist in any manner in the carrying on or conducting of the business.

**'Establishment'** is any premises or site wherein or whereon the Industry, or part thereof, as herein defined, is carried on.

**'File'** means to lodge with the Council in terms of Rule 7 of Annexure A.

**'General Secretary'** means the General Secretary of the Council appointed by the annual general meeting of the Council.

**'Industry'** means the Civil Engineering Industry in which employers (other than local authorities) and employees are associated for the purpose of carrying out work of a civil engineering character normally

T. G. M. L.V.

associated with the civil engineering sector and includes such work in connection with any one or more of the following activities:

- a) The construction of aerodrome runways or aprons; aqueducts; bins or bunkers; bridges; cable ducts; caissons; rafts or other marine structures; canals; cooling, water or other towers; dams; docks; harbours; quays or wharves; earthworks; encasements; housing or supports for plant, machinery or equipment; factory or works chimneys; filter beds; land or sea defence works; mine headgear/s; pipelines; piers; railways; reservoirs; river works; roads or streets; sewerage works; sewers; shafts or tunnels; silos; sports fields or grounds; swimming baths; viaducts or water treatment plants; and/or
- b) Excavation and bulk earthworks; bush clearing and de-stumping; topsoil stripping; drilling and blasting; preparation of bench areas, drilling pre-split holes and blasting and/or cast blasting; secondary blasting; loading, hauling and dumping of mineralized and/or waste material to waste dumps or processing plant feed (ROM Pad) stockpiles; production dozing of top soil, inter burden or waste material; pumping and dewatering of storm and/or contaminated water; construction and maintenance of access and haul roads, ramps, waste and processing plant feed (ROM Pad) areas, safety beams, high walls; benches, storm water systems, catch drains, bund walls, surge dams; trimming, scaling or chain dragging of batters, heap-leach pads, tailings dams; dust suppression of loading areas, haul roads and dumping areas; rehabilitation of earth work areas or waste dumps; topsoil spreading, hydro-seeding and watering and/or
- c) Excavation work or the construction of foundations, lift shafts, piling, retaining walls, stairwells, underground parking garages or other underground structures; and/or
- d) The asphaltting, concreting, gravelling, levelling or paving of parking areas, pavements, roads, streets, aerodrome runways or aprons, premises or sites

and further includes: -

- e) Any work of a similar nature or work incidental to or consequent on any of the aforesaid activities; and/or
- f) The making, repairing, checking or overhauling of tools, vehicles, plant, machinery or equipment in workshops which are conducted by employers engaged in any of the activities referred to in sub - clauses (a) to (f) inclusive;

but excluding: -

- i) Work in connection with any one or more of the activities specified in definition (iii) where such work, when undertaken in connection with the erection of structures having the general character of buildings and irrespective of whether or not such work involves problems of a civil engineering character, is carried out by the employers erecting such structures;
- ii) Work in connection with any one or more of the activities specified in definition (iii) when undertaken as an incidental operation in connection with the erection of

T. G. M. 2.4

structures having the general character of buildings or when undertaken by the employers erecting such structures;

- (iii) Any work falling within the scope of any other industry, and
- (iv) The Mining Industry which is defined as the industry where employers and employees are associated for the purpose, directly or indirectly, for the winning, extracting, processing and refining of a mineral in, on or under the earth or water or from any residue stockpile or residue deposit.

**'Labour Court'** means the Labour Court established by Section 151 of the Act and includes any judge of the Labour Court.

**'Party'** means –

- (i) the Council;
- (ii) any or all of the employers' organisation(s) and/or trade union(s) listed as members of this Council;
- (iii) any employers' organisation(s) and/or trade union(s) not listed as a member of this Council; and/or
- (iv) any employer and/or employee and/or any of the organisations referred to in (ii) or (iii) hereof acting on their behalf.

**'Rules'** means the rules for conciliation, arbitration and other proceedings before the Council, as contained in Annexure A and includes footnotes appearing in any rule.

**'Public holiday'** means a public holiday referred to in section 1 of the Public Holidays Act 36 of 1994.

**'Serve'** means to serve a document in accordance with Rule 5 of Annexure A and "service" has a corresponding meaning.

## CHAPTER 2

### DISPUTE RESOLUTION

#### 2.1 Preamble

- 2.1.1 The Council has been accredited, in terms of section 127(5) of the Act, to conciliate or conciliate and arbitrate disputes provided for in this agreement.
- 2.1.2 Notwithstanding this agreement, parties may agree to meet in an attempt to resolve any dispute between them. They may give consideration to appoint, at their own cost, a mediator or arbitrator or referring the dispute to any other process, as agreed between them.
- 2.1.3 Notwithstanding the provisions of this agreement, nothing prevents the parties to a dispute to establish, by agreement, their own, private dispute procedures.

T.G.M. / L.V.

**2.2 Disputes to be conciliated and arbitrated as provided for in the Act (commonly known as disputes of right)**

2.2.1 Disputes in terms of this clause which arise in the registered scope of the Council must be referred to the Council for resolution and the Rules in Annexure A apply.

2.2.2 The arbitrating Commissioner, in determining a dispute, shall take into account –

- (a) any code of good practice that has been issued by NEDLAC in accordance with the provisions of the LRA; and
- (b) the purpose and effect of the Council's collective agreements relevant to the matter being considered in the arbitration proceedings.

**2.3 Mutual interest disputes (commonly known as disputes of interest)**

2.3.1 Matters of mutual interest that are subject to negotiations are resolved through conciliation and industrial action, subject to clause 2.3.2.

2.3.2 Where the dispute concerns a refusal to bargain, as defined in section 64(2) of the Act, an advisory award must be issued at the conclusion of the conciliation process before notice of industrial action is given.

2.3.3 In order to refer a dispute concerning any matter in clauses 2.3.1 and 2.3.2 to the Council for conciliation, the relevant provisions of the Rules for the Conduct of Dispute Resolution Proceedings, contained in Annexure A to this agreement, applies with the changes required by the context.

2.3.4 The conciliating commissioner may, in addition to the powers given to a conciliator in the Act, require the parties to appoint a sub-committee elected from the National Negotiating Forum, to meet within a specified number of days for the purposes of attempting to resolve the dispute, and/or advise the parties to refer the dispute to advisory or binding arbitration.

2.3.5 Industry disputes shall be processed and dealt with in accordance with this agreement.

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## **2.4 Disputes concerning unilateral amendments to conditions of employment**

Disputes about an employer unilaterally amending employment conditions will be dealt with in accordance with section 64(4) of the Act and the relevant provisions for referring a dispute to conciliation and otherwise dealing with a dispute in conciliation, as contained in the Rules for the Conduct of Dispute Resolution Proceedings in Annexure A, apply.

## **2.5 Interpretation and application disputes**

- 2.5.1 Any dispute concerning the interpretation or application of this agreement will be resolved by way of conciliation and arbitration.
- 2.5.2 Any dispute concerning the interpretation and application of any other of the Council's collective agreements will be resolved by way of conciliation and arbitration.
- 2.5.3 The Rules for the Conduct of Dispute Resolution Proceedings in Annexure A to this agreement apply.

## **2.6 Demarcation disputes**

Demarcation disputes must be referred to the CCMA in terms of section 62 of the Act.

## **2.7 General**

- 2.7.1 The Council shall comply with the accreditation requirements set by the CCMA.
- 2.7.2 The Council shall establish and maintain a panel of conciliators and arbitrators to conduct conciliations, arbitrations and all related proceedings in terms of this agreement. The Council may at any stage decide to remove a person from a panel for whatever reason it considers appropriate, including but not limited to incapacity or serious misconduct.
- 2.7.3 The Council shall maintain in safe-keeping all arbitration awards and rulings given under its jurisdiction, which shall be available to all parties within the industry.
- 2.7.4 Without in any way detracting from the rights and obligations emanating from this agreement, it shall be interpreted and applied in a manner that promotes effective dispute resolution.

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**CHAPTER 3****ENFORCEMENT OF AND COMPLIANCE WITH COLLECTIVE AGREEMENTS**

- 3.1 The Council is entitled to monitor, investigate and enforce compliance with its collective agreements in terms of this clause or a collective agreement concluded by the parties to the Council.
- 3.2 A designated agent of the Council must investigate and attempt to resolve a dispute/complaint that comes to his/her attention in the course of performing his/her duties.
- 3.3 A designated agent of the Council is authorised to issue a compliance order, requiring any person bound by the Councils' collective agreements to comply with the collective agreements within the time frame determined by the designated agent.
- 3.4 The Council may refer any unresolved dispute concerning compliance with any provision of a collective agreement to arbitration by completing the prescribed form and serving it on all parties concerned.
- 3.5 The provisions of the Act and the rules in Annexure A to this agreement pertaining to arbitrations apply, with the necessary changes, to arbitrations conducted in terms of this Chapter.
- 3.6 An arbitrator conducting an arbitration in terms of this clause may make any appropriate award, including –
- (a) ordering a person to pay any amount owing in terms of a collective agreement;
  - (b) imposing a fine for a failure to comply with a collective agreement in accordance with Tables One and Two as set out hereunder as Annexure B;
  - (c) charging a party an arbitration fee;
  - (d) ordering a party to pay the costs of the arbitration;
  - (e) confirming, varying or setting aside a compliance order issued by a designated agent; or
  - (f) any award contemplated in section 138(9) of the Act.
- 3.7 Interest on any amount that a person is obliged to pay in terms of a collective agreement accrues from the date on which the amount was first due and is payable at the rate prescribed in terms of the Prescribed Rate of Interest Act 55 of 1975, unless the arbitration award provides otherwise.

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- 3.8 If an employer files an application to review and set aside an arbitration award that was issued in a compliance arbitration, any obligation included in the award to pay a fine is suspended pending the outcome of the review.

#### **CHAPTER 4**

#### **EXEMPTIONS**

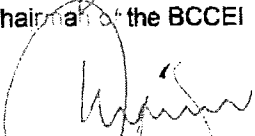
All exemption applications and any appeal or dispute that may arise as a result of an exemption application must be dealt with in accordance with the "Exemptions Collective Agreement".

T. G-m. <sup>lv</sup>

Signed for and on behalf of the parties at Johannesburg on \_\_\_\_\_ 2019



.....  
Chairman of the BCCEI



.....  
Vice-Chairman of the BCCEI



.....  
General Secretary of the BCCEI

**ANNEXURE A****RULES FOR THE CONDUCT OF DISPUTE RESOLUTION PROCEEDINGS  
BEFORE THE BARGAINING COUNCIL FOR THE CIVIL ENGINEERING  
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## **CHAPTER ONE SERVICE AND FILING OF DOCUMENTS**

### **1. Contacting the Council**

- (1) The addresses, email addresses, telephone and telefax numbers of the offices of the Council are contained in Schedule 1.
- (2) All documents must be filed with the Council at the Johannesburg office or at the regional office in the region in which the dispute arose.

### **2. Office hours of the Council**

- (1) For the purposes of these Rules, the offices of the Council will be open every day from Monday to Friday, excluding public holidays, between the hours of 8:00 and 16:00, or as determined by the Council from time to time.
- (2) Documents that are handed in at one of the offices of the Council must be filed on the days and during the hours referred to in sub-rule (1). Documents may be faxed or e-mailed at any time during a day, whether during or outside the office hours of the Council.

### **3. Calculation of time periods**

- (1) For the purpose of calculating time periods provided for in 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 and 7 January.

### **4. Persons who may sign documents**

- (1) A document that a party must sign in terms of the Act or these Rules must be signed by him or her personally or by his or her representative.
- (2) (a) Where proceedings are jointly instituted or opposed by more than one employee, all documents must be signed by all the employees or by their representative or by one of the

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employees if mandated to sign on behalf of all the other employees. If an employee has been so mandated, the mandate must be attached to the document.

- (b) A written list of the employee or of all employees who are instituting or opposing the proceedings must be attached to all documents. The list must contain the full names, identity numbers and telephone numbers of all the employees and, where possible, also their physical and e-mail addresses.
- (3) The onus is on all parties to any proceedings before this Council to advise the Council of any changes in their personal and/or contact details.

## **5. Service of documents on other parties**

- (1) A party must serve a document on the other party or parties –
  - (a) by handing a copy of the document to –
    - (i) the party or parties concerned;
    - (ii) a representative authorised in writing to accept service on behalf of the party or parties;
    - (iii) a person who is in charge of the party's place of residence, business or place of employment and who appears to be at least 16 years of age.
  - (b) by leaving a copy of the document on the main door or other visible area at the address chosen by the party to receive service;
  - (c) by faxing a copy of the document to the party's fax number or to a fax number chosen by that party to receive service;
  - (d) by e-mailing a copy of the document to the party's e-mail address or to an e-mail address chosen by that party. The relevant provisions of the Electronic Communications and Transactions Act 25 of 2002 are applicable to service by e-mail;
  - (e) by sending a copy of the document by registered mail to the last known postal address of the party or to a postal address chosen by the party to receive service;
- (2) A document may also be served on –
  - (a) a company or other body corporate by handing a copy of the document to a responsible employee of the company or body corporate at its head office, its principal place of business within the Republic or its office where the dispute arose;

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- (b) on an 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;
  - (c) on a trade union or employers' organisation by handing a copy of the document to a responsible employee or official at the head office of the union or employers' organisation or its office in the magisterial district in which the dispute arose;
  - (d) on a partnership, firm or association by handing a copy of the document to a responsible employee or official at the place of business of the partnership, firm or association or, if it has no place of business, by serving a copy of the document on a partner, the owner of the firm or the chairperson or secretary of the managing or other controlling body of the association, as the case may be;
  - (e) on a municipality by serving a copy of the document on the municipal manager or any other person authorised to accept service;
  - (f) on a statutory body by handing a copy to the secretary or similar officer or member of the board or committee of that body or any person acting on behalf of that body; or
  - (g) on the State or a province, a state department or a provincial department, a minister 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) The Council or a commissioner may order service of a document in a manner other than prescribed in this Rule.
- (4) The Council may, if so requested by an unrepresented employee earning less than the threshold prescribed by the Minister under section 6(3) of the Basic Conditions of Employment Act of 1997, provide administrative assistance to that employee to serve any notice or document in respect of any proceedings in terms of the Act or these Rules, provided that the employee remains responsible in law for any such service.

## 6. Proof of service

- (1) A party must prove to the Council or to a commissioner that a document was served in accordance with Rule 5 by providing the Council or a commissioner with -

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- (a) a copy of the registration slip that the document was sent by registered mail to the other party;
- (b) a copy of the fax transmission report indicating the successful fax transmission of the whole document to the other party. The Council may request an affidavit from the person who sent the fax to confirm that the whole document was successfully transmitted and that the number to which it was sent was the correct number of the recipient;
- (c)
  - (i) if a document was served by e-mail, with a copy of the sent e-mail, indicating the successful transmission of the document and all attachments to the other party;
  - (ii) the Council may request an affidavit from the person who sent the e-mail to confirm that the document was successfully sent and that the e-mail address to which it was sent was the correct address of the recipient;
  - (iii) the relevant provisions of the Electronic Communications and Transactions Act 25 of 2002 are applicable to service by e-mail.
- (d) if a document was served by hand –
  - (i) with a copy of a receipt signed by, or on behalf of, the recipient which clearly indicates the name and job title of the recipient and the place, time and date of service; or
  - (ii) with an affidavit, confirming service, signed by the person who delivered a copy of the document to the other party or left it at the premises of the other party; or
  - (iii) with a copy of the referral form with an official company stamp and the name and job title of the recipient, as well as the place, time and date of service.

## 7. Filing documents with the Council

- (1) A party must file documents with the Council –
  - (a) by handing the document to a responsible person at the Council's Johannesburg office or at the regional office in the region in which the dispute arose, as per Schedule 1, and obtaining the signature of the recipient as confirmation of receipt of the document; or
  - (b) by sending a copy of the document by e-mail, fax or registered mail to the Council at its Johannesburg office or the regional office in the region where the dispute arose, as contained in Schedule 1.

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- (2) A document has been filed with the Council when –
- (a) the entire document has been handed to a responsible person at one of the offices of the Council, as contained in Schedule 1;
  - (b) an entire document sent by registered mail has been received by the Council;
  - (c) an entire document has been successfully transmitted by fax to the Council; or
  - (d) an entire document has been successfully transmitted by e-mail to the Council, as provided for in the Electronics Communications and Transactions Act 25 of 2002.
- (3) A party must file the original of a document which was faxed if requested to do so by the Council or a commissioner within seven (7) days of the request. If not filed within seven (7) days, as requested, the faxed copy of the document may be rejected.

## **8 Notice of proceedings before the Council**

The Council must give notice of a conciliation or arbitration hearing or any other proceeding before it by means of any of the methods of service provided for in Rule 5 or may give notice by means of short message service (SMS).

## **9. Documents and notices sent by registered mail**

Any document or notice sent by registered mail 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 mailed.

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## CHAPTER TWO CONCILIATION OF DISPUTES

### 10. Referring a dispute to the Council for conciliation

- (1) A party must refer a dispute to the Council for conciliation by filing a completed LRA Form 7.11 (the "referral document") and serving a copy thereof on the other party or parties.
- (2) The referring party must –
  - (a) complete the LRA Form 7.11 fully by filling in all the spaces on the form;
  - (b) sign the referral document in accordance with Rule 4;
  - (c) attach to the referral document written proof, in accordance with Rule 6, that a copy of the referral document was served on the other party or parties to the dispute; and
  - (d) if the referral document is filed out of time, attach an application for condonation. The application for condonation must be done in accordance with Rule 35 and must meet the requirements of Rule 24(3).
- (3) The Council must accept, but may refuse to process a referral document until sub-rule (2) has been complied with.

### 11. Notice by the Council to the parties of a conciliation hearing

- (1) The Council 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 justifiable circumstances require a shorter period of notice.
- (2) Despite the provisions of Rule 3, the time period of fourteen (14) days runs from the date the notification is sent by the Council, but if notification is sent by registered mail an additional seven (7) days must be allowed.

### 12. Pre-conciliation proceedings

The Council or a commissioner may contact the parties by telephone or other means, prior to the commencement of a conciliation hearing, in an attempt to seek to resolve the dispute.

### 13. Jurisdiction of the Council to conciliate a dispute

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If a jurisdictional issue is raised during the conciliation proceedings the commissioner must require the referring party to prove that the Council has jurisdiction to conciliate the dispute, provided that any jurisdictional challenge requiring evidence may be deferred to arbitration.

**14. Issuing of a certificate in terms of section 135(5)**

- (1) A certificate of outcome, issued in terms of section 135(5) that the dispute has or has not been resolved, must identify the nature of the dispute and the parties as described in the referral document or as identified by the commissioner during the conciliation proceedings;
- (2) If the dispute that has been referred to the Council for conciliation has not been enrolled for conciliation within the 30-day conciliation period, as envisaged in section 135(2) of the Act, a certificate of non-resolution will be issued after expiry of said 30-day period in accordance with section 135(5) of the Act.

**15. Conciliation proceedings are confidential**

- (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 to disclosure or if ordered to do so by a court of law.
- (2) No person, including a commissioner, may be called as a witness during any subsequent proceedings in the Council or in any court of law to give evidence of what transpired during conciliation, unless ordered to do so by a court of law.

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

**16. 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. Despite the provisions of Rule 3, 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 who intends to object to a dispute being dealt with in terms of section 191(5A) must deliver a written notice of objection to the Council and the other party or parties at least seven (7) days prior to the scheduled date.
- (3) Sub-rule (2) does not apply to a dispute concerning the dismissal of an employee for any reason related to probation or to 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 Commissioner must conduct the conciliation on the date specified in the notice of set down.
- (5) Sub-rule (4) applies irrespective of whether a party has lodged a notice of objection in terms of sub-rule (2).
- (6) The provisions of these Rules that apply to conciliations and arbitrations, including rules on representation, apply with the changes required by the context to the conciliation and arbitration parts of con-arb proceedings respectively.
- (7) If the arbitration does not proceed or is not concluded on the scheduled date, the Council must schedule the matter for arbitration or for continuance of the arbitration by notifying the parties in accordance with Rule 20.

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## CHAPTER FOUR ARBITRATIONS

### 17. Referring a dispute to the Council for arbitration

- (1) A party who wants to refer an unresolved dispute to the Council for arbitration must deliver a completed LRA Form 7.13 by filing the form with the Council and serving a copy thereof on the other party or parties.
- (2) When delivering an LRA Form 7.13, the referring party must –
  - (a) ensure that LRA Form 7.13 has been fully completed by filling in all spaces and that all attachments have been annexed to LRA Form 7.13;
  - (b) that LRA Form 7.13 and all attachments have been signed in accordance with Rule 4;
  - (c) when filing the referral document with the Council, attach to it written proof that a copy of LRA Form 7.13 and all attachments were served on the other party or parties to the dispute in accordance with Rule 6; and
  - (d) where LRA Form 7.13 is filed out of time, attach an application for condonation which must be done in accordance with Rule 35 and which meets the requirements of Rule 24(3).
- (3) The Council must accept an LRA Form 7.13 even if sub-rule (2) has not been complied with, but may refuse to process the referral until the requirements in sub-rule (2) have been complied with.
- (4) This Rule does not apply to con-arb proceedings held in terms of section 191(5A).

### 18. Statements of case

- (1) The Council or a commissioner 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

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- (b) be delivered within the time period specified by the Commissioner or the Council.
- (3) The Commissioner has a discretion to continue with the arbitration despite non-compliance with a directive to deliver a statement of case and answering statement, but any non-compliance must be taken into account when considering costs at the conclusion of the arbitration hearing.

#### 19. Pre-arbitration conference

- (1) The parties to an arbitration must hold a pre-arbitration conference, dealing with the matters referred to in sub-rule (3), if directed to do so by the Council or a commissioner.
- (2) The parties to an arbitration may agree to hold a pre-arbitration conference and, when doing so, must deal with the matters referred to in sub-rule (3).
- (3) 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 arbitrating commissioner is required to decide;
  - (e) the 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 bundles 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;
  - (h) whether evidence on affidavit will be admitted with or without the deponent of the affidavit testifying and the other party cross-examining him or her;
  - (i) which party must begin;
  - (j) the necessity for any on-the-spot inspection;
  - (k) securing the presence of any witness at the venue appointed by the Council;
  - (l) the raising and/or 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 expedited;
  - (p) an estimate of the time required for the hearing;
  - (q) the right of representation; and

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- (r) whether an interpreter is required and, if so, for how long and for which of the official South African languages.
- (4) Unless a dispute is settled, the parties must draw up and sign a minute, setting out the issues referred to in sub-rule (3) and indicating their agreement or disagreement on those issues.
- (5) The referring party must ensure that a copy of the pre-arbitration conference minute is filed with the Council within seven (7) days of the conclusion of the pre-arbitration conference or as directed by the Council or Commissioner.
- (6) The Council or Commissioner 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.

## **20. Notice by the Council to parties of an arbitration hearing**

The Council 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. Despite the provisions of Rule 3, 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.

## **21. Jurisdiction of the Council to arbitrate**

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

## **22. Postponement of an arbitration or any hearing other than conciliation**

- (1) An arbitration must be postponed, and there is no need for the parties to appear, if all the parties to the proceedings agree in writing to a postponement and the written agreement is filed with the Council at least seven (7) days before the scheduled arbitration date.
- (2) Where the parties agree to a postponement, but fail to file their written agreement to postpone at least seven (7) days before the arbitration date, as required in sub-rule (1), the parties will not be required to appear on the scheduled arbitration date, but may be

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held liable, in equal portions, for the arbitration costs incurred by the Council in respect of the day of the arbitration, unless good cause can be shown why the written agreement was filed late. The parties will be required to submit written representations to show good cause, which will be considered and determined by an independent commissioner.

- (3) An arbitration may be postponed on application. Where the parties do not agree to a postponement in writing, any party to the dispute may apply for a postponement. The application must be done in accordance with Rule 35 and the time periods in Rule 35 apply.
- (4) The Council will appoint a commissioner to consider the application for postponement on the papers and the commissioner so appointed will issue a written ruling before the scheduled arbitration date.
- (5) If an application for postponement is not delivered within the prescribed time, the parties have to attend the arbitration proceedings, at which time condonation for the late delivery and the postponement will have to be argued. Parties must be prepared to continue with the arbitration in the event that postponement is not granted.

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**CHAPTER FIVE  
RULES THAT APPLY TO CONCILIATIONS, ARBITRATIONS AND OTHER  
PROCEEDINGS**

**23. Venue of proceedings**

The Council determines the venue for any and all proceedings, which will be conducted in the region in which the dispute arose, unless the Council determines otherwise.

**24. Condonation for the late filing of documents or failure to comply with the Rules**

- (1) This Rule applies to all referral documents, applications and other documents which are delivered outside of the applicable time period prescribed in the Act or these Rules.
- (2) Condonation must be applied for in accordance with Rule 35 when a document is filed late with the Council or as soon as the party who has filed a document becomes aware that the document was filed late.
- (3) An application for condonation must set out the grounds on which condonation is sought and must include details of at least 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 Council or a commissioner may condone, on good cause shown, any failure to comply with any time period provided for in the Act or these Rules.
- (5) In deciding whether or not to grant condonation, the Council or commissioner may act in such a manner as is deemed expedient in the circumstances in order to achieve the objectives of the Act. In doing so, regard shall be had to substance rather than form.

**25. Representation**

- (1) In conciliation proceedings--

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- (a) an employee or ex-employee<sup>1</sup> may appear in person or can be represented by an office bearer, official or member of his or her registered trade union, provided that the employee was a paid-up member of that trade union at the date the dispute arose;
  - (b) an employer who is a sole trader may appear in person or can be represented by any of its employees;
  - (c) an employer who is a partnership can be represented by any of the partners or by any employee of the partnership;
  - (d) an employer who is a close corporation (CC) can be represented by any member or any employee of the CC;
  - (e) an employer who is a company can be represented by a director or an employee of that company;
  - (f) a government department, municipality or any organ of state can be represented by any one of its employees;
  - (g) an employer who is an association, organisation or other entity can be represented by one of its board members or by an employee;
  - (h) despite the provisions in (b) – (g), an employer can be represented by an office bearer, official or member of its registered employers' organisation;
  - (i) a registered trade union that is a party to a dispute can be represented by an office bearer, official or member of the trade union if authorised to do so in writing, which written authorisation must be handed up to the presiding commissioner at the commencement of the proceedings;
  - (j) a registered employers' organisation that is a party to a dispute can be represented by an office bearer, official or member of the employers' organisation if authorised to do so in writing, which written authorisation must be handed up to the presiding commissioner at the commencement of the proceedings;
- (2) In arbitrations or any proceedings, other than conciliations, a party to the dispute may appear in person or be represented by a person as set out in sub-rule (1) or by a legal practitioner, subject to sub-rule (3).
- (3) If an arbitration concerns the dismissal of an employee as a result of the employee's alleged misconduct or incapacity, a party is not entitled to be represented by a legal practitioner in the arbitration hearing,<sup>2</sup> unless -
- (i) the commissioner and all the parties consent; or

<sup>1</sup> An "ex-employee" for the purposes of this Rule means an employee who alleges an unfair dismissal and who is challenging the fairness of the dismissal or an employee whose services were terminated and who alleges, in terms of section 186(2)(c) of the Act, that the employer has refused or failed to reinstate or re-employ him/her in terms of an agreement.

<sup>2</sup> For the purposes of this rule "arbitration hearing" means the actual arbitration and does not include other hearings or proceedings related to or flowing from the arbitration, such as jurisdictional challenges, other preliminary issues and applications.

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- (ii) on application, which application must be done in accordance with Rule 35, and if the commissioner considering the application concludes that it is unreasonable to expect a party to deal with the dispute without legal representation, after considering -
  - a) the nature of the questions of law raised by the dispute;
  - b) the complexity of the dispute;
  - c) the public interest; and
  - d) the comparative ability of the opposing parties or their representatives to deal with the dispute.
- (4) No representative other than a legal practitioner may charge a fee or receive any financial benefit in consideration for representing a party in any proceedings before the Council.
- (5) If a party to the dispute objects to the representation of another party to the dispute or if the Commissioner suspects that a representative does not qualify to appear in terms of this Rule, the Commissioner seized with the matter must determine the standing of that representative.
- (6) In determining whether a representative qualifies to represent a party in terms of this Rule, the Commissioner may call upon the representative to show why he or she should be permitted to appear in terms of this Rule and may direct the representative to tender any documents, including but not limited to, constitutions, pay-slips, contracts of employment, recognition agreements and proof of paid-up membership of a registered trade union or registered employers' organisation.
- (7) Despite the provisions relating to employer representation in this Rule, a commissioner may exclude an employer's representative if that representative joined an employers' organisation for the sole purpose of representing an employer in Council proceedings or if the participation of that representative may unfairly advantage the employer.

## 26. Correcting the citation of a party

- (1) If a party to any proceedings has been incorrectly or defectively cited, the Council may of its own accord or by consent of the parties or on application and on notice to the parties concerned correct the error or defect.
- (2) An application to have a citation corrected must be made in accordance with Rule 35.

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**27. Consolidation of disputes**

- (1) The Council, of its own accord, or a commissioner, of his or her own accord, may consolidate more than one dispute so that the disputes are dealt with in the same proceedings.
- (2) Parties may agree to have disputes consolidated, in which case a commissioner must issue a written ruling in which the consolidation is confirmed or the parties may file a written and signed agreement to confirm the consolidation.
- (3) Any party to a dispute may apply for the consolidation of disputes, in which case an application must be made in accordance with Rule 35 and a commissioner must issue a written ruling, allowing or dismissing the application.

**28. Joinder or substitution of parties**

- (1) The Council or the Commissioner seized with a matter may, at any time prior to the conclusion of an arbitration hearing, join any person as a party to the proceedings if that person's right to relief depends on substantially the same question of law or fact.
- (2) The Commissioner seized with a matter may, at any time during any proceedings, order the joining of any person as a party to the proceedings if the person to be joined has a substantial interest in the subject matter and/or outcome of the proceedings.
- (3) The Commissioner may make an order in terms of sub-rule (2) –
  - (a) of his or her own accord;
  - (b) on application by a party; or
  - (c) on application by a person who has an interest in the matter before the Council and who is entitled to be joined to the proceedings.
- (4) When making an order in terms of sub-rule (2), the Commissioner may –
  - (a) give appropriate directions as to further procedures in the proceedings; and
  - (b) make an order of costs in accordance with these Rules.
- (5) If in any proceedings it becomes necessary to substitute a party with another person, any party to the proceedings may apply to the Council for an order substituting that party with the other person and the Commissioner may make such order and/or give appropriate directions as to the further procedures in the proceedings.

- (6) An application to join a person or to substitute a party may be made at any time prior to the conclusion of an arbitration hearing and must be made in accordance with Rule 35.
- (7) An application to join a person as a party to proceedings or to substitute an existing party with another person must be accompanied by copies of all documents previously delivered, unless the person concerned or his or her representative is already in possession of the documents.
- (8) Subject to any order made in terms of sub-rules (4) and (5), a joinder or substitution in terms of this Rule does not affect any steps already taken in the proceedings.

## **29. Discovery of documents**

- (1) At any time after the request for arbitration has been delivered, either party may request the Commissioner seized with the matter to make an order as to the discovery of relevant documents or other evidence.
- (2) The parties may agree to the discovery of documents or other relevant evidence.

## **30. Failure to attend proceedings**

- (1) If both the referring party and his or her representative fail to attend conciliation proceedings, the commissioner must conclude the proceedings by issuing a certificate to the effect that a dispute remains unresolved.
- (2) If the party opposing the dispute and its representative fail to attend the conciliation proceedings, the Commissioner must issue a certificate to the effect that the dispute remains unresolved or, in the case of a mutual interest dispute, postpone the proceedings to a later date, provided that such a postponement falls within the 30-day conciliation period as provided for in section 135(2) of the Act and provided, further, that there is a compelling reason for such a postponement.
- (3) If the referring party and his or her representative fail to attend an arbitration hearing or any proceedings before the council other than conciliation, the Commissioner must dismiss the matter, unless the referring party or his or her representative has provided, before the commencement of the proceedings, justifiable and acceptable reasons for not attending the proceedings.

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- (4) If the party opposing the dispute that has been referred to arbitration or opposing any issue that has been referred to the Council for proceedings other than conciliation or arbitration, the Commissioner may continue with the proceedings in the absence of the opposing party and his or her representative or may, on good cause shown, postpone the proceedings to a later date.
- (5) Any postponement or dismissal of a matter in terms of this Rule must be confirmed by the Commissioner in writing and the written ruling must be served by the Council on the parties.

### 31. Subpoenas

- (1) Any party who requires the Council or a commissioner to subpoena a person in terms of section 142(1) of the Act must file a completed LRA Form 7.16, together with a written motivation, setting out why the evidence of the person to be subpoenaed is necessary, as well as proof of payment of the witness fees.
- (2) A party requesting the Council to waive the requirement of paying witness fees in terms of section 142(7)(c) of the Act must set out the reasons for the request in writing at the time of requesting the subpoena. The Council's decision to waive or not waive the witness fees must be provided in writing to the party who requested the waiver before the subpoena is served on the person to be subpoenaed.
- (3) An application in terms of sub-rule (1) must be filed with the Council at least fourteen (14) days prior to the scheduled date of the proceedings, or as directed by the Commissioner seized with the matter.
- (4) The Council must refuse to issue a subpoena if –
  - (a) the party requesting the subpoena does not establish why the evidence of the person is necessary;
  - (b) the witness who is being subpoenaed does or will not receive the subpoena at least seven (7) days prior to the scheduled date of the proceedings;
  - (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, unless the witness fees has been waived by the Council in terms of sub-rule (2).
- (5) A subpoena must be served on the witness –

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- (a) 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 proceedings; and
  - (b) must be accompanied by proof of payment of the prescribed witness fees and reasonable travel and subsistence expenses for one day. The fees in the Council are the same as the fees in the CCMA, which are published in the *Government Gazette* from time to time.
- (6) Sub-rules (4)(c) and (5)(b) do not apply if the Council, in terms of section 142(7)(c), has waived the requirement to pay witness fees.

### 32. Expert witnesses

- (1) A party intending to call an expert witness shall give seven (7) days' notice, prior to the date of the proceedings, to the Council and the other party or parties of its intention to call an expert witness.
- (2) Such notice shall be accompanied by—
- (a) a summary of the evidence the expert witness will give;
  - (b) any document on which the expert witness will rely; and
  - (c) the basis upon which the witness is regarded to be an expert.

### 33. Payment of witness fees

- (1) A witness who has been subpoenaed in any proceedings before the Council must be paid a witness fee in accordance with the tariff as published by the CCMA in the *Government Gazette*.
- (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 but by a commissioner or if the Council has waived the requirement to pay witness fees in terms of section 142(7)(c) of the Act.

### 34. Costs orders in arbitration proceedings

- (1) In any arbitration proceedings or proceedings arising out of or in the course of an arbitration, the Commissioner may make an order for the payment of costs according to the requirements of law and fairness and, in doing so, should have regard to –

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- (a) the measure of success that the parties achieved;
  - (b) considerations of fairness that weigh in favour of or against granting a costs order;
  - (c) any with prejudice offers that were made with a view to settling the dispute;
  - (d) whether a party or his or her representative acted in a frivolous and vexatious manner by proceeding with or defending the dispute in the arbitration or in its conduct during the proceedings;
  - (e) the effect that a costs order may have on the continued employment relationship of the parties;
  - (f) any agreement concluded between the parties to the arbitration concerning the basis on which costs should be awarded;
  - (g) the importance to the parties and the labour community at large of the issues raised;
  - (h) any other relevant factor.
- (2) Costs may be ordered either in the form of disbursements or legal costs, not both.
- (3) An order as to costs, in the form of disbursements only, may be made where not all parties are legally represented during the proceedings and, if such costs are ordered, the Commissioner can order costs for only those disbursements he or she deems reasonable in the circumstances.
- (4) In proceedings where all parties are not legally represented a party seeking costs in the form of disbursements must do so during the course of the proceedings and must itemise each claim with supporting documentation. The other party or parties must be afforded an opportunity to oppose the claims.
- (5) Where the Commissioner orders costs in the form of disbursements in proceedings in which not all parties are legally represented, the Commissioner must, in his or her order, specify each item that has been allowed, as well as the amount in respect of each item.
- (6) An order as to costs, in the form of legal costs, can be ordered only if both or all parties to the proceedings are legally represented and such costs are fixed at a rate of R10 000 (ten thousand rand) in respect of the first day of the proceedings and R6 000 (six thousand rand) for each additional day of the proceedings. Said amounts are inclusive of VAT.

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## CHAPTER SIX APPLICATIONS

### 35. Bringing an application

- (1) This Rule applies to all –
  - (a) applications for condonation, joinder, substitution, variation, rescission, postponement, consolidation of disputes and correction of citation;
  - (b) applications in a jurisdictional dispute; and
  - (c) other preliminary or interlocutory applications.
- (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, provided that if an application is delivered by registered mail, the application must be brought twenty-one (21) days prior to the hearing date.
- (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 Council, if available;
  - (c) the relief sought;
  - (d) the address at which the party delivering the documents will accept delivery of all documents and proceedings;
  - (e) that any party who intends to oppose the matter is required to deliver a notice of opposition and an answering affidavit within five (5) days from the date the application was served or, if delivered by registered mail, within twelve (12) days;
  - (f) that the application may be heard in the absence of a party that does not comply with sub-paragraph (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;

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- (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 24; 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.
- (5) (a) Any party opposing the application must deliver a notice of opposition and an answering affidavit within five (5) days from the day on which the application was served or, if served by registered mail, within twelve (12) days.
- (b) A notice of opposition and an answering affidavit must contain, with the changes required by the context, the same information as is required in sub-rules (3) and (4).
- (6) (a) The party bringing the application may deliver a replying affidavit within three (3) days from the date on which the notice of opposition and answering affidavit were served or, if served by registered mail, within ten (10) days.
- (b) The replying affidavit must address only issues raised in the answering affidavit and may not introduce new issues of fact or law.
- (7) A commissioner may permit the affidavits referred to in this Rule to be substituted by written statements.
- (8) In an urgent application, the Council or a commissioner –
- (a) may dispense with the requirements of this Rule; and
  - (b) may only grant an order against a party who has had reasonable notice of the application.
- (9) Once the replying affidavit has been delivered or, if not delivered, once the time period for delivering the replying affidavit has lapsed, the Council must—
- (a) allocate a date for the hearing of the application; and
  - (b) notify the parties of the date, time and venue of the hearing.
  - (c) Applications may be heard on a motion roll or, despite (a) and (b), may be dealt with on the papers.

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- (10) Despite this Rule, the Council or a commissioner may determine an application in any manner deemed appropriate, provided that the Council or the Commissioner informs the parties of how the process will be conducted and giving the parties an opportunity to be heard.

### **36. Variation and rescission of rulings and arbitration awards**

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.

### **37. Application to refer a dismissal dispute to the Labour Court**

- (1) An application in terms of section 191(6) of the Act to refer a matter to the Labour Court must be delivered –
  - (a) within ninety (90) days of a certificate that the dispute has not been resolved was issued; or
  - (b) by a party who has not requested arbitration, within fourteen (14) days of the date the referral to arbitration was filed.
- (2) Despite sub-rule (1), a party who requests arbitration may not thereafter make an application in terms of section 191(6).
- (3) The application must state the grounds on which a party relies in requesting that the dispute be referred to the Labour Court.
- (4) If any party to the dispute objects to the matter being referred to the Labour Court, that party must state the grounds for the objection within seven (7) days of receipt of the application.
- (5) The Council must notify the parties of its decision in terms of section 191(8) within fourteen (14) days after receipt of the objection.

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**CHAPTER SEVEN  
SECTION 188A INQUIRY**

**38. Inquiry by arbitrator in terms of section 188A**

- (1) An employer requesting the Council to conduct an inquiry in terms of section 188A of the Act must do so by delivering a completed LRA Form 7.19 to the Council.
- (2) The employee must sign the LRA Form 7.19 to indicate his or her consent to an inquiry by an arbitrator, unless –
  - (a) the employee earns more than the amount determined by the Minister in terms of section 6(3) of the Basic Conditions of Employment Act (BCEA) and has consented in terms of section 188A(4) to the inquiry in his or her contract of employment, in which case a copy of the contract must be attached to LRA Form 7.19; or
  - (b) the employee is bound by a collective agreement that provides for a section 188A inquiry, in which case a copy of the collective agreement must be attached to LRA Form 7.19;
- (3) When filing the LRA Form 7.19 the employer must pay the prescribed fee, which is the same as in the CCMA,<sup>3</sup> to the Council by way of a bank guaranteed cheque or by electronic transfer into the banking account of the Council.
- (4) Within seven (7) days of receipt of a completed LRA Form 7.19 which complies with sub-rule (2) and payment of the prescribed fee in terms of sub-rule (3), the Council must notify the parties of the date, time and venue of the inquiry.
- (5) Unless the parties agree otherwise, the Council must give the parties at least seven (7) days' notice of the inquiry.
- (6) The Council will be required to refund a fee paid in terms of sub-rule (3) only if the Council is notified of the resolution of the matter prior to enrolling the matter for an inquiry and issuing a notice to the parties in terms of sub-rule (4).

<sup>3</sup> The tariff of fees published by the CCMA in the *Government Gazette* from time to time.

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## CHAPTER EIGHT GENERAL

### 39. Certification of arbitration awards

- (1) An application to have a Council arbitration award certified must be made on LRA Form 7.18A.
- (2) An arbitration award that has been certified in terms of section 143 of the Act that –
  - (a) orders the payment of an amount of money to an employee may be enforced by execution against the property of the employer by the Sheriff of the Court in the magisterial district where the employer resides or conducts its business;
  - (b) orders the performance of an act other than the payment of money may be enforced by way of contempt proceedings in the Labour Court.
- (3) For the purposes of this Rule, an arbitration award includes any order as to costs and an arbitration fee charged in terms of section 140(2) of the Act.

### 40. Recording of Council proceedings

- (1) A commissioner must keep a record of all proceedings, save conciliation proceedings, in digital recording format and in legible hand-written or typed notes.
- (2) The record must capture the entire proceedings, including all evidence, testimonies and arguments given by the parties.
- (3) Upon conclusion of the proceedings the Commissioner must file the entire and full record with the Council and the Council shall keep the record in safe-keeping.
- (3) Any party to the proceedings may request a copy of the record or a portion thereof upon payment of the costs as prescribed by the Council.

### 41. Project specific agreements

- (1) Any project specific agreement that provides for a special dispute resolution dispensation that covers parties to the Council must be approved by the Council.

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- (2) Disputes arising in the context of a project specific agreement shall be dealt with in accordance with such an agreement and where such agreement is silent, in terms of these Rules.

#### 42. Definitions

Unless the context of these Rules indicates otherwise, any expression, word or phrase used in these Rules shall have the same meaning as defined in the Labour Relations Act 66 of 1995 and any reference to an Act shall include all amendments and regulations to such Act and, unless the contrary intention appears, words importing the masculine gender shall include the female gender and, further, unless inconsistent with the context-

**"Act"** means the Labour Relations Act 66 of 1995, as amended, and includes all regulations made in terms of that Act and codes or guidelines issued under the Act;

**"Association"** means any unincorporated body or persons;

**"CCMA"** or **"Commission"** means the Commission for Conciliation, Mediation and Arbitration, established in terms of section 112 of the Act.

**"Collective Agreement"** includes –

- (i) any collective agreement signed under the auspices of the Council; and
- (ii) the rules of any fund or scheme established by the Council.

**"Con-arb"** means proceedings held in terms of section 191(5A) of the Act.

**"Council"** or the **"BCCEI"** means the Bargaining Council for the Civil Engineering Industry, registered in terms of section 29 of the Act.

**"Commissioner"** means a person appointed by the Council to preside over and determine dispute in the Council and who has been accredited by the CCMA;

**"Deliver"** means to serve a document on other parties and to file that document with the Council.

**"Dispute"** includes an alleged dispute and means any situation where –

- (i) two or more parties are unable to reach agreement on a matter of mutual interest between them and one or more of those parties advise the Council in writing that they are in dispute; or
- (iii) any dispute that has to be referred to the Council, in terms of the Labour Relations 66 of 1995, for resolution.

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**"Employer"** means any person, including a temporary employment service (TES) as defined in section 198(1) of the Act, who employs or provides work to another person, other than a volunteer or an independent contractor, and who remunerates or undertakes, expressly or tacitly, to remunerate that person and who permits that other person to assist in any manner in the carrying on or conducting of the business.

**"File"** means to lodge with the Council in accordance with Rule 7 of these Rules.

**"General Secretary"** means the General Secretary of the Council, appointed by the annual general meeting of the Council.

**"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.

**"Proceedings"** means a conciliation hearing, an arbitration hearing, a con-arb hearing, any hearing that is related to or flows from a conciliation, arbitration or con-arb and any other hearing that is scheduled by the Council in the process of resolving a dispute and includes applications that are considered and determined on the papers.

**"Public holiday"** means a public holiday as defined in section 1 of the Public Holidays Act 36 of 1994.

**"Region"** means the general area in a province where a dispute arose and does not mean the magisterial district in which the dispute arose;

**"Rules"** means these Rules and includes headings and any footnote to a Rule.

**"Serve"** means to provide a copy of a document to the other party or parties to the proceedings in accordance with rule 5 and "service" has a corresponding meaning.

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**SCHEDULE 1****ADDRESSES OF THE COUNCIL**

The addresses and contact details of the Council are as follows:

**Johannesburg office**

Block F, Eastgate Park Office

24 South Boulevard, Bruma 2198

Tel: (011) 450 4966/63

Fax: 086 550 4995

e-mail: [disputes@bccei.co.za](mailto:disputes@bccei.co.za) or [info@bccei.co.za](mailto:info@bccei.co.za)

**Cape Town office**

White Oaks Terraces, Old Oak Office Park

Edmar Street, Durbanville 7535

Tel: 010 001 0096

Fax: 086 550 4995

e-mail: [disputes@bccei.co.za](mailto:disputes@bccei.co.za) or [info@bccei.co.za](mailto:info@bccei.co.za)

**Durban office**

Suite 102, Gateview Office Park

3 Sugar Close, Umhlanga Ridge 4320

Tel: 010 001 0097

Fax: 086 550 4995

e-mail: [disputes@bccei.co.za](mailto:disputes@bccei.co.za) or [info@bccei.co.za](mailto:info@bccei.co.za)

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**East London office**

Shop 11C, Beacon Bay Crossing Centre

Cnr N2 & Bonza Bay Road, Beacon Bay 5241

Tel: 010 001 0099

Fax: 086 550 4995

e-mail: [disputes@bccei.co.za](mailto:disputes@bccei.co.za) or [info@bccei.co.za](mailto:info@bccei.co.za)

**Port Elizabeth office**

51 Sixth Ave, Newton Park

Port Elizabeth 6050

Tel: 010 001 0098

Fax: 086 550 4995

e-mail: [disputes@bccei.co.za](mailto:disputes@bccei.co.za) or [info@bccei.co.za](mailto:info@bccei.co.za)

**Bloemfontein office**

Suite 1 Boward Building, 107 Zastron Street

Bloemfontein, 9300

Tel: 010 001 0095

Fax: 086 550 4995

e-mail: [disputes@bccei.co.za](mailto:disputes@bccei.co.za) or [info@bccei.co.za](mailto:info@bccei.co.za)

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**SCHEDULE 2****FORMS**

|                |   |
|----------------|---|
| LRA Form 7.11  | REFERRING A DISPUTE TO THE BARGAINING COUNCIL FOR THE CIVIL ENGINEERING INDUSTRY ("BCCEI") FOR CONCILIATION (INCLUDING CON-ARB) |
| LRA Form 7.12  | CERTIFICATE OF OUTCOME OF DISPUTE REFERRED TO CONCILIATION  |
| LRA Form 7.13  | REQUEST FOR ARBITRATION   |
| LRA Form 7.14  | NOTICE OF OBJECTION TO ARBITRATION BY SAME COMMISSIONER   |
| LRA Form 7.15  | APPLICATION TO APPOINT A SENIOR COMMISSIONER TO ARBITRATE   |
| LRA Form 7.16  | SUBPOENA  |
| LRA Form 7.18A | APPLICATION TO CERTIFY A BARGAINING COUNCIL AWARD   |
| LRA Form 7.19  | REQUEST FOR INQUIRY BY ARBITRATOR   |
| LRA Form 7.21  | REQUEST FOR ADVISORY AWARD ON WHETHER A PERSON IS AN EMPLOYEE   |

All above forms are accessible via the website at [www.bccel.co.za](http://www.bccel.co.za), alternatively contact the BCCEI for assistance.

## ANNEXURE B

## GUIDELINES FOR THE LEVYING OF FINES

- 1) Until such time as the Minister promulgates a notice in terms of Section 33A (13) of the Act, an arbitrator conducting an arbitration in terms of section 33A of the Act may impose a fine in terms of section 33A (8) (b) of the Act subject to the maximum fines set out in Table one and Two of this item.
- 2) The maximum fine that may be imposed by an arbitrator in terms of section 33 A (8) (b) of the Act –
  - (a) for a failure to comply with a provision of a collective agreement not involving a failure to pay any amount of money, is the fine determined in terms of Table One; and
  - (b) involving a failure to pay an amount due in terms of a collective agreement, is the greater of the amounts determined in terms of Table One and Table Two.

TABLE ONE : MAXIMUM PERMISSIBLE FINE NOT INVOLVING AN UNDERPAYMENT

|  |   |
|--|---|
| No previous failure to comply  | R100 per employee in respect of whom the failure to comply occurs |
| A previous failure to comply in respect of the same provision  | R200 per employee in respect of whom the failure to comply occurs |
| A previous failure to comply within the previous 12 months or two previous failures to comply in respect of the same provisions within three years | R300 per employee in respect of whom the failure to comply occurs |
| Three previous failures to comply in respect of the same provision within three years  | R400 per employee in respect of whom the failure to comply occurs |
| Four or more previous failures to comply in respect of the same provision within three years   | R500 per employee in respect of whom the failure to comply occurs |

TABLE TWO: MAXIMUM PERMISSIBLE FINE INVOLVING AN UNDERPAYMENT

|   |   |
|---|---|
| No previous failure to comply   | 25% of the amount due, including any interest owing on the amount at the date of the order  |
| A previous failure to comply in respect of the same provision within three years  | 50% of the amount due, including any interest owing on the amount at the date of the order  |
| A previous failure to comply in respect of the same provision within a year, or two previous failures to comply in respect of the same provision within three years | 75% of the amount due, including any interest owing on the amount at the date of the order  |
| Three previous failures to comply in respect of the same provision within three years   | 100% of the amount due, including any interest owing on the amount at the date of the order |
| Four or more previous failures to comply in respect of the same provision within three years  | 200% of the amount due, including any interest owing on the amount at the date of the order |

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## DEPARTMENT OF SOCIAL DEVELOPMENT

NO. R. 582

22 MAY 2020

**SOCIAL SERVICE PROFESSIONS ACT, 1978 (Act No. 110 of 1978)****REGULATIONS RELATING TO THE REQUIREMENTS AND CONDITIONS FOR REGISTRATION  
OF A SPECIALITY IN OCCUPATIONAL SOCIAL WORK**

I, Lindiwe Zulu, Minister of Social Development intend, in terms of section 28(1)(gA)(i) and (ii) of the Social Service Professions Act, 1978 (Act No. 110 of 1978) and on the recommendation of the South African Council for Social Service Professions and the Professional Board for Social Work, to make the regulations in the Schedule.

Interested persons are invited to submit substantiated written comments or representations on the proposed regulations to the Minister of Social Development, Private Bag X901, Pretoria, 0001 or 134 Pretorius Street, Pretoria, 0001; (for the attention of Ms Galeboe Rapoo) or by email to [galeboer@dsd.gov.za](mailto:galeboer@dsd.gov.za), within 30 days from the date of publication of this Notice in the Government Gazette.



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**MS LINDIWE D ZULU, MP**  
**MINISTER OF SOCIAL DEVELOPMENT**  
**DATE: 12...12.2..12020**

## SCHEDULE

### 1. Definitions

In these Regulations, unless the context indicates otherwise-

**“Act”** means the Social Service Professions Act 110 of 1978 and includes the regulations, schedules and rules;

**“assessment”** means the process that is undertaken by the Professional Board for Social Work to determine whether an applicant meets all the requirements to register for a speciality in social work;

**“Council”** means the South African Council for Social Service Professions established in terms of section 2 of the Act;

**“client systems”** means in occupational social work the employees as part of the work system as well as their family systems; the employing organisation (where the employees are employed); and communities with which the employing organisation has operational or geographical links that has either asked for or sanctioned social work services, is expected to benefit from those services and has entered into an agreement of co-operation or a contract with a social worker.

**“employing organisation”** means any organisation or state department who employs an occupational social worker on a full time, part time or contractual basis;

**“occupational social work”** means a specialised field in social work, that addresses the human and social needs of the work community within a developmental approach through a variety of interventions which aim to foster optimal adaptation between individuals and their environment

**“occupational social worker”** means a registered social worker with scientific and specialised knowledge, skills and experience in occupational social work.

**“professional board”** means the Professional Board for Social Work established in terms of section 14A of the Act;

**“proficiency”** means an advance knowledge, skill and experience in a certain defined area of social work;

**“scope or practice”** means the parameters within which an occupational social worker who has met the prescribed registration requirements practise;

**“social work”** means a practise-based profession and an academic discipline that promotes social change and development, social cohesion, and the empowerment and liberation of people with the principles of social justice, human rights, collective responsibility and respect for diversities being central to social work and underpinned by theories of social work, social sciences, humanities and indigenous knowledge. Social work engages people and structures to address life challenges and enhance wellbeing (IFSW and IASSW, 2014); and

**“social worker”** means a person registered in terms of section 17 of the Act.

## **2. Requirements for registration of speciality in occupational social work**

- (1) These regulations prescribe in accordance with section 17C(1) of the Act the qualifications and proficiencies required to be registered for a speciality in occupational social work.
- (2) The South African Council for Social Service Professions shall on application register an applicant for a speciality in occupational social work where the applicant has:
  - (a) submitted proof of registration as a social worker in accordance with the provisions of the Act;
  - (b) paid the prescribed administration, assessment and moderation fees as determined by the Council at that point in time; and
  - (c) submitted proof as contemplated in section 17C(2)(a)(ii) of the Act that he or she complies with one or more of the following prescribed requirements:
    - (i) masters' degree in social work appropriate to a speciality in occupational social work, plus two years of relevant evidence based practical knowledge and experience within the scope of occupational social work; or
    - (ii) post graduate certificate or diploma appropriate to a speciality in occupational social work, plus three years of relevant evidence based practical knowledge and experience within the scope of occupational social work; or
    - (iii) bachelor's degree in social work, plus the completion of accredited short course in occupational social work recognised and approved by the Council, on recommendation of the Professional Board for Social Work, with four years of relevant evidence based practical knowledge and experience within the scope of occupational social work; or
    - (iv) bachelor's degree in social work, with five years of relevant evidence based practical knowledge and experience within the scope of occupational social work.
  - (d) The evidence based practical knowledge and experience contemplated in regulation 2(c)(i)-(iv) must meet the assessment criteria of the Council for the purpose of determining whether the social worker concerned has the required proficiencies to practice a speciality in occupational social work.
- (3)
  - (a) A social worker who applies to register for a speciality in occupational social work and does not meet the prescribed requirements in sub-regulation (2), may apply to sit for an examination as contemplated in section 17C(2A)(a) of the Act.
  - (b) The examination as contemplated in sub-regulation 2(a) shall be based on specific standards related to the proficiencies for a speciality in occupational social work as approved by the Council, on recommendation of the Professional Board for Social Work.
  - (c) For the purpose of the examination as contemplated in regulation 2(a) the Council, on recommendation of the Professional Board of Social Work, shall:
    - (i) determine the annual date for the conducting of the examination;
    - (ii) appoint in accordance with section 17C (2A)(a) of the Act at least two external examiners with proven knowledge in occupational social work and at least one representative from the Professional Board of Social Work to prepare and conduct the examination;

- (iii) determine whether the examination will be in writing or will be oral; and
- (iv) determine the competence level of such an examination in accordance with section 17C(2A)(a) of the Act.

(4) An applicant who completed a written or oral examination in occupational social work in accordance with sub-regulation (3), shall be provided with the examination results.

(5) Only a person who has met the criteria as contemplated in sub-regulation (2), or who has passed the examination as contemplated in sub-regulation (3) may be registered for a speciality in occupational social work.

### **3. Scope of practice for speciality in occupational social work**

(1) Occupational social work includes-

- (a) work focussed assessment by assessing the needs or problems of various client systems in the workplace and the reciprocal relationship between them;
- (b) the assessment of the interface and impact of the employing organisation in the community in which the workplace functions;
- (c) work focussed interventions with individuals, groups, employing organisations and communities;
- (d) implementing organisation and community interventions to ensure a socially responsible employing organisation;
- (e) the promotion of a culture in the workplace to enhance human rights practises, social justice and productivity; and
- (f) work focussed policy and programme development.

### **4. Conditions for practise of speciality in occupational social work**

(1) A social worker who has complied with the requirements referred to in regulation 2(2) may in terms of section 17C(2) of the Act be registered for and practise a speciality in occupational social work.

(2) A social worker who is not registered for a speciality in occupational social work will not be precluded from practising acts related to occupational social work, subject to the provisions of regulation 6

(3) A social worker who is registered for a speciality in occupational social work should adhere to requirements of the Council pertaining to continuing professional development.

(4) A social worker after registering for a speciality in occupational social work in terms of section 17C of the Act may practise as a specialist in occupational social work, provided the social worker pays the prescribed annual fee -

- (a) as a social worker; and
- (b) for the speciality.

(5) A social worker after registering a speciality in occupational social work who ceases to comply with any prescribed requirement for the registration of a speciality in occupational social work shall be removed from the Register in accordance with section 17C(3)(b) of the Act.

## **5. Application for registering speciality in occupational social work**

(1) Applicants shall complete and submit an application on a form obtainable from the Council together with the required proof that the applicant complies with the requirements for a speciality as contemplated in section 17C(1)(a)(ii) of the Act.

(2) The application contemplated in sub-regulation (1) shall be accompanied by the following supporting documents-

- (a) proof of current social work registration with the Council;
- (b) a certified copy of relevant qualifications or recognised short course contemplated in regulation 2(2)(c)(i)-(iii);
- (c) proof of payment of the prescribed administration, assessment and moderation fees; and
- (d) a signed letter from the supervisor or relevant consultant or manager confirming years of experience in occupational social work.

(3) All applications for a speciality in occupational social work shall be assessed as contemplated in section 17C(2)(a)(i) or (ii) of the Act.

(4) The assessment shall be in line with the criteria based on the standards related to the proficiencies for a speciality in occupational social work.

(5) The Council, on recommendation of the Professional Board of Social Work, shall approve the criteria and standards contemplated in sub-regulation (4).

(6) The Registrar and the Professional Board for Social Work shall undertake the assessment contemplated in sub-regulations (3) and (4).

## **6. Use of titles**

(1) The title '*occupational social worker*' may only be used by a person who has been registered for a speciality in occupational social work in accordance with regulation 2.

(2) No person may in accordance with section 17C(5) of the Act practise as an occupational social worker unless he or she is registered as such in accordance with regulation 2.

(3) A social worker who has registered a speciality in occupational social work shall display clearly his or her registration certificate as

- (a) social worker; and
- (b) occupational social worker.

## **7. Repeal of regulations**



These regulations repeal the *Regulations relating to the registration of specialisation in occupational social work* published in Government Notice R. 15 (Government Gazette No: 32886 of 22 January 2010).

## **8. Short title and commencement**

These regulations are called the *Regulations relating to the requirements and conditions for registration of a speciality in occupational social work* and come into operation upon publication.

**SOCIAL SERVICE PROFESSIONS ACT, 1978 (Act No. 110 of 1978)****REGULATIONS RELATING TO THE REQUIREMENTS AND CONDITIONS FOR REGISTRATION  
OF A SPECIALITY IN SCHOOL SOCIAL WORK**

I, Lindiwe Zulu, Minister of Social Development intend, in terms of section 28(1)(gA)(i) and (ii) of the Social Service Professions Act, 1978 (Act No. 110 of 1978) and on the recommendation of the South African Council for Social Service Professions and the Professional Board for Social Work, to make the regulations in the Schedule.

Interested persons are invited to submit substantiated written comments or representations on the proposed regulations to the Minister of Social Development, Private Bag X901, Pretoria, 0001 or 134 Pretorius Street, Pretoria, 0001 (for the attention of Ms Galeboe Rapoo); or by email to [galeboer@dsd.gov.za](mailto:galeboer@dsd.gov.za), **within 30 days from the date of publication** of this Notice in the Government Gazette.



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**MS LINDIWE D ZULU, MP**  
**MINISTER OF SOCIAL DEVELOPMENT**  
**DATE: 12...10.2.2020**

## SCHEDULE

### 1. Definitions

In these regulations, unless the context indicates otherwise-

**“Act”** means the Social Service Professions Act 110 of 1978 and includes the regulations, schedules and rules;

**“assessment”** means the process that is undertaken by the Professional Board for Social Work to determine whether an applicant meets all the requirements to register for a speciality in social work;

**“Council”** means the South African Council for Social Service Professions established in terms of section 2 of the Act;

**“educational institution”** means a public school in terms of Section 12(3) of the South African Schools Act 84 of , 1996 or an independent school in terms of Section 45 and 46 of the South African Schools Act 84 of 1996;

**“educator”** means any person, excluding a person who is appointed to exclusively perform extracurricular duties, who teaches, educates or trains other persons or who provides professional services, including professional therapy and educational psychological services at a school (section 1 of the South African Schools Act 84 of 1996);

**“learner”** means any person receiving education or is obliged to receive education in terms of the South African Schools Act 84 of 1996;

**“professional board”** means the Professional Board for Social Work established in terms of section 14A of the Act;

**“proficiency”** means an advance knowledge, skill and experience in a certain defined area of social work;

**“scope or practice”** means the parameters within which a school social worker who has met the prescribed registration requirements practise;

**“school social work”** means a specialised field in social work that focuses on holistic social work services as an integral part of the education context, addressing psycho-social barriers to learning experienced by learners in educational institutions;

**“social work”** means a practise-based profession and an academic discipline that promotes social change and development, social cohesion, and the empowerment and liberation of people with the principles of social justice, human rights, collective responsibility and respect for diversities being central to social work and underpinned by theories of social work, social sciences, humanities and indigenous knowledge. Social work engages people and structures to address life challenges and enhance wellbeing (IFSW and IASSW, 2014); and

**“social worker”** means a person registered in terms of section 17 of the Act.

## **2. Requirements for registration of speciality in school social work**

(1) These regulations prescribe in accordance with section 17C(1) of the Act the qualifications and proficiencies required to be registered for a speciality in school social work.

(2) The South African Council for Social Service Professions shall on application register an applicant for a speciality in school social work where the applicant has:

- (a) submitted proof of registration as a social worker in accordance with the provisions of the Act;
- (b) paid the prescribed administration, assessment and moderation fees as determined by the Council at that point in time; and
- (c) submitted proof as contemplated in section 17C(2)(a)(ii) of the Act that he or she complies with one or more of the following prescribed requirements:
  - (i) masters' degree in social work appropriate to a speciality in school social work, plus two years of relevant evidence based practical knowledge and experience within the scope of school social work; or
  - (ii) post graduate certificate or diploma appropriate to a speciality in school social work, plus three years of relevant evidence based practical knowledge and experience within the scope of school social work; or
  - (iii) bachelor's degree in social work, plus the completion of accredited short course in school social work recognised and approved by the Council, on recommendation of the Professional Board for Social Work, with four years of relevant evidence based practical knowledge and experience within the scope of school social work; or
  - (iv) bachelor's degree in social work, with five years of relevant evidence based practical knowledge and experience within the scope of school social work.

(d) The evidence based practical knowledge and experience contemplated in regulation 2(c)(i)-(iv) must meet the assessment criteria of the Council for the purpose of determining whether the social worker concerned has the required proficiencies to practice a speciality in school social work.

(3) (a) A social worker who applies to register for a speciality in school social work and does not meet the prescribed requirements in sub-regulation (2), may apply to sit for an examination as contemplated in section 17C(2A)(a) of the Act.

(b) The examination as contemplated in sub-regulation 2(a) shall be based on specific standards related to the proficiencies for a speciality in school social work as approved by the Council, on recommendation of the Professional Board for Social Work.

(c) For the purpose of the examination as contemplated in regulation 2(a) the Council, on recommendation of the Professional Board of Social Work, shall:

- (i) determine the annual date for the conducting of the examination;
- (ii) appoint in accordance with section 17C(2A)(a) of the Act at least two external examiners with proven knowledge in school social work and at least one

representative from the Professional Board of Social Work to prepare and conduct the examination;

- (iii) determine whether the examination will be in writing or will be oral; and
- (iv) determine the competence level of such an examination in accordance with section 17C(2A)(a) of the Act.

(4) An applicant who completed a written or oral examination in school social work in accordance with sub-regulation (3), shall be provided with the examination results.

(5) Only a person who has met the criteria as contemplated in sub-regulation (2), or who has passed the examination as contemplated in sub-regulation (3) may be registered for a speciality in school social work.

### **3. Scope of practice for speciality in school social work**

(1) School social work includes-

- (a) screening, identifying, assessing and supporting to address social, emotional and behavioural barriers to learning, experienced by learners taking into cognisance cultural diversity;
- (b) utilising direct and indirect social work methods of intervention to support parents, families and learners to overcome barriers to learning;
- (c) providing guidance and support to educators, parents and families to best meet the learning, physical, social and emotional needs of a learner;
- (d) advocate for quality, equitable, just, inclusive and supportive education environments for learners to enable them to realize their full potential through learning;
- (e) functioning within a multi-disciplinary team within the education context, addressing psycho-social barriers to learning experienced by learners in educational institutions; and
- (f) providing expert evidence and opinion.

### **4. Conditions for practise of speciality in school social work**

(1) A social worker who has complied with the requirements referred to in regulation 2(2) may in terms of section 17C(2) of the Act be registered for and practise a speciality in school social work.

(2) A social worker who is not registered for a speciality in school social work will not be precluded from practising acts related to school social work, subject to the provisions of regulation 6

(3) A social worker who is registered for a speciality in school social work should adhere to requirements of the Council pertaining to continuing professional development.

(4) A social worker after registering for a speciality in school social work in terms of section 17C of the Act may practise as a specialist in school social work, provided the social worker pays the prescribed annual fee -

- (a) as a social worker; and
- (b) for the speciality.

(5) A social worker after registering a speciality in school social work who ceases to comply with any prescribed requirement for the registration of a speciality in school social work shall be removed from the Register in accordance with section 17C(3)(b) of the Act.

## **5. Application for registering speciality in school social work**

(1) Applicants shall complete and submit an application on a form obtainable from the Council together with the required proof that the applicant complies with the requirements for a speciality as contemplated in section 17C(1)(a)(ii) of the Act.

(2) The application contemplated in sub-regulation (1) shall be accompanied by the following supporting documents-

- (a) proof of current social work registration with the Council;
- (b) a certified copy of relevant qualifications or recognised short course contemplated in regulation 2(2)(c)(i)-(iii);
- (c) proof of payment of the prescribed administration, assessment and moderation fees; and
- (d) a signed letter from the supervisor or relevant consultant or manager confirming years of experience in school social work.

(3) All applications for a speciality in school social work shall be assessed as contemplated in section 17C(2)(a)(i) or (ii) of the Act.

(4) The assessment shall be in line with the criteria based on the standards related to the proficiencies for a speciality in school social work.

(5) The Council, on recommendation of the Professional Board of Social Work, shall approve the criteria and standards contemplated in sub-regulation (4).

(6) The Registrar and the Professional Board for Social Work shall undertake the assessment contemplated in sub-regulations (3) and (4).

## **6. Use of titles**

(1) The title '*school social worker*' may only be used by a person who has been registered for a speciality in school social work in accordance with regulation 2.

(2) No person may in accordance with section 17C(5) of the Act practise as a school social worker unless he or she is registered as such in accordance with regulation 2.

(3) A social worker who has registered a speciality in school social work shall display clearly his or her registration certificate as

- (a) social worker; and
- (b) school social worker.

## **7. Short title and commencement**

These regulations are called the *Regulations relating to the requirements and conditions for registration of a speciality in school social work* and come into operation upon publication.

**SOCIAL SERVICE PROFESSIONS ACT, 1978 (Act No. 110 of 1978)****REGULATIONS RELATING TO THE REQUIREMENTS AND CONDITIONS FOR REGISTRATION  
OF A SPECIALITY IN SOCIAL WORK SUPERVISION**

I, Lindiwe Zulu, Minister of Social Development intend, in terms of section 28(1)(gA)(i) and (ii) of the Social Service Professions Act, 1978 (Act No. 110 of 1978) and on the recommendation of the South African Council for Social Service Professions and the Professional Board for Social Work, to make the regulations in the Schedule.

Interested persons are invited to submit substantiated written comments or representations on the proposed regulations to the Minister of Social Development, Private Bag X901, Pretoria, 0001 or 134 Pretorius Street, Pretoria, 0001 (for the attention of Ms Galeboe Rapoo); or by email to [galeboer@dsd.gov.za](mailto:galeboer@dsd.gov.za), **within 30 days from the date of publication** of this Notice in the Government Gazette.



.....  
**MS LINDIWE D ZULU, MP**  
**MINISTER OF SOCIAL DEVELOPMENT**  
**DATE: 12...10.2.2020**



## SCHEDULE

### 1. Definitions

In these regulations, unless the context indicates otherwise-

**“Act”** means the Social Service Professions Act 110 of 1978 and includes the regulations, schedules and rules;

**“assessment”** means the process that is undertaken by the Professional Board for Social Work to determine whether an applicant meets all the requirements to register for a speciality in social work;

**“Council”** means the South African Council for Social Service Professions established in terms of section 2 of the Act;

**“professional board”** means the Professional Board for Social Work established in terms of section 14A of the Act;

**“proficiency”** means an advance knowledge, skill and experience in a certain defined area of social work;

**“scope or practice”** means the parameters within which a specialist in social work supervision who has met the prescribed registration requirements practise;

**“social work”** means a practise-based profession and an academic discipline that promotes social change and development, social cohesion, and the empowerment and liberation of people with the principles of social justice, human rights, collective responsibility and respect for diversities being central to social work and underpinned by theories of social work, social sciences, humanities and indigenous knowledge. Social work engages people and structures to address life challenges and enhance wellbeing (IFSW and IASSW, 2014);

**“social worker”** means a person registered in terms of section 17 of the Act;

**“social work supervision”** means an interactional process within the context of a positive, anti-discriminatory relationship, based on distinct theories, models and perspectives on social work supervision whereby a social work supervisor, supervises a supervisee by utilising the educational, supportive and administrative functions of social work supervision in order to promote efficient and professional rendering of social work services (Social Work Supervision Framework, 2012);

**“supervisee”** refers to the social worker, social auxiliary worker, student social worker and/or student social auxiliary worker whom receives social work supervision; and

**“supervisor”** refers to the social worker who provides social work supervision.

### 2. Requirements for registration of speciality in social work supervision

(1) These regulations prescribe in accordance with section 17C(1) of the Act the qualifications and proficiencies required to be registered for a speciality in social work supervision.

- (2) The South African Council for Social Service Professions shall on application register an applicant for a speciality in social work supervision where the applicant has:
- (a) submitted proof of registration as a social worker in accordance with the provisions of the Act;
  - (b) paid the prescribed administration, assessment and moderation fees as determined by the Council at that point in time; and
  - (c) submitted proof as contemplated in section 17C(2)(a)(ii) of the Act that he or she complies with one or more of the following prescribed requirements:
    - (i) masters' degree in social work appropriate to a speciality in social work supervision, plus two years of relevant evidence based practical knowledge and experience within the scope of social work supervision; or
    - (ii) post graduate certificate or diploma appropriate to a speciality in social work supervision, plus three years of relevant evidence based practical knowledge and experience within the scope of social work supervision; or
    - (iii) bachelor's degree in social work, plus the completion of accredited short course in social work supervision recognised and approved by the Council, on recommendation of the Professional Board for Social Work, with four years of relevant evidence based practical knowledge and experience within the scope of social work supervision; or
    - (iv) bachelor's degree in social work, with five years of relevant evidence based practical knowledge and experience within the scope of social work supervision.
  - (d) The evidence based practical knowledge and experience contemplated in regulation 2(c)(i)-(iv) must meet the assessment criteria of the Council for the purpose of determining whether the social worker concerned has the required proficiencies to practice a speciality in social work supervision.
- (3) (a) A social worker who applies to register for a speciality in social work supervision and does not meet the prescribed requirements in sub-regulation (2), may apply to sit for an examination as contemplated in section 17C(2A)(a) of the Act.
- (b) The examination as contemplated in sub-regulation 2(a) shall be based on specific standards related to the proficiencies for a speciality in social work supervision as approved by the Council, on recommendation of the Professional Board for Social Work.
  - (c) For the purpose of the examination as contemplated in regulation 2(a) the Council, on recommendation of the Professional Board of Social Work, shall:
    - (i) determine the annual date for the conducting of the examination;
    - (ii) appoint in accordance with section 17C (2A)(a) of the Act at least two external examiners with proven knowledge in social work supervision and at least one representative from the Professional Board of Social Work to prepare and conduct the examination;
    - (iii) determine whether the examination will be in writing or will be oral; and
    - (iv) determine the competence level of such an examination in accordance with section 17C(2A)(a) of the Act.

- (4) An applicant who completed a written or oral examination in social work supervision in accordance with sub-regulation (3), shall be provided with the examination results.
- (5) Only a person who has met the criteria as contemplated in sub-regulation (2), or who has passed the examination as contemplated in sub-regulation (3) may be registered for a speciality in social work supervision.

### **3. Scope of practice for speciality in social work supervision**

- (1) Social work supervision as an area of specialisation in social work encompasses the supervision of social workers, student social workers, social auxiliary workers and student social auxiliary workers, by utilising the following functions -
- (a) *management and administration*: provide professional guidance and oversight in the establishment of sustainable quality standards of social work in compliance with organisational, statutory and profession specific legislation, policies, procedures and norms and standards;
  - (b) *education and professional development*: provide ongoing opportunities for professional development to supervisees in relation to the scientific knowledge, values and competencies that direct the practise of social work; and
  - (c) *professional support*: create an enabling and supportive environment to ensure effective service delivery.
- (2) Social work supervision integrates the functions described in sub-regulation (1) and is conducted through individual and/or group and/or peer supervision.
- (3) Social work supervision includes the following –
- (a) determination of the type and extent of supervision required by a supervisee;
  - (b) establishment of a supervisory relationship between the supervisor and the supervisee, based on confidentiality and trust; ;
  - (c) development of individual supervision agreements and supervision plans based on learning needs, learning styles and current workload;
  - (d) recording of supervision sessions; does it need to state if audio or written recording
  - (e) honest and transparent feedback between the supervisor and the supervisee; and
  - (f) reflection and application of ethical considerations.

### **4. Conditions for practise of speciality in social work supervision**

- (1) A social worker who has complied with the requirements referred to in regulation 2(2) may in terms of section 17C(2) of the Act be registered for and practise a speciality in social work supervision.
- (2) A social worker who is not registered for a speciality in social work supervision will not be precluded from practising acts related to social work supervision, subject to the provisions of regulation 6

- (3) A social worker who is registered for a speciality in social work supervision should adhere to requirements of the Council pertaining to continuing professional development.
- (4) A social worker after registering for a speciality in practising social work supervision in terms of section 17C of the Act may practise as a specialist in social work supervision, provided the social worker pays the prescribed annual fee -
- (a) as a social worker; and
  - (b) for the speciality.
- (5) A social worker after registering a speciality in social work supervision who ceases to comply with any prescribed requirement for the registration of a speciality in social work supervision shall be removed from the Register in accordance with section 17C(3)(b) of the Act.

## **5. Application for registering speciality in practising social work supervision**

- (1) Applicants shall complete and submit an application on a form obtainable from the Council together with the required proof that the applicant complies with the requirements for a speciality as contemplated in section 17C(1)(a)(ii) of the Act.
- (2) The application contemplated in sub-regulation (1) shall be accompanied by the following supporting documents-
- (a) proof of current social work registration with the Council;
  - (b) a certified copy of relevant qualifications or recognised short course contemplated in regulation 2(2)(c)(i)-(iii);
  - (c) proof of payment of the prescribed administration, assessment and moderation fees; and
  - (d) a signed letter from the supervisor or relevant consultant or manager confirming years of experience in social work supervision.
- (3) All applications for a speciality in social work supervision shall be assessed as contemplated in section 17C(2)(a)(i) or (ii) of the Act.
- (4) The assessment shall be in line with the criteria based on the standards related to the proficiencies for a speciality in social work supervision.
- (5) The Council, on recommendation of the Professional Board of Social Work, shall approve the criteria and standards contemplated in sub-regulation (4).
- (6) The Registrar and the Professional Board for Social Work shall undertake the assessment contemplated in sub-regulations (3) and (4).

## **6. Use of titles**

- (1) The title '*specialist in social work supervision*' may only be used by a person who has been registered for a speciality in social work supervision in accordance with regulation 2.

- (2) No person may in accordance with section 17C(5) of the Act practise as a specialist in social work supervision unless he or she is registered as such in accordance with regulation 2.
- (3) A social worker who has registered a speciality in social work supervision shall display clearly his or her registration certificate as
- (a) social worker; and
  - (b) specialist in social work supervision.

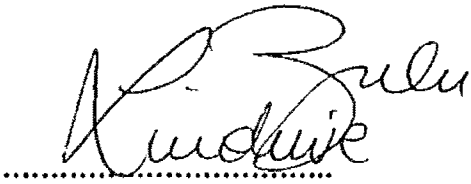
## **7. Short title and commencement**

These regulations are called the *Regulations relating to the requirements and conditions for registration of a speciality in in social work supervision* and come into operation upon publication.

**SOCIAL SERVICE PROFESSIONS ACT, 1978 (Act No. 110 of 1978)****REGULATIONS RELATING TO THE REQUIREMENTS AND CONDITIONS FOR REGISTRATION  
OF A SPECIALITY IN IN SOCIAL WORK IN HEALTH CARE**

I, Lindiwe Zulu, Minister of Social Development intend, in terms of section 28(1)(gA)(i) and (ii) of the Social Service Professions Act, 1978 (Act No. 110 of 1978) and on the recommendation of the South African Council for Social Service Professions and the Professional Board for Social Work, to make the regulations in the Schedule.

Interested persons are invited to submit substantiated written comments or representations on the proposed regulations to the Minister of Social Development, Private Bag X901, Pretoria, 0001 or 134 Pretorius Street, Pretoria, 0001 (for the attention of Ms Galeboe Rapoo); or by email to [galeboer@dsd.gov.za](mailto:galeboer@dsd.gov.za), **within 30 days from the date of publication** of this Notice in the Government Gazette.



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**MS LINDIWE D ZULU, MP**  
**MINISTER OF SOCIAL DEVELOPMENT**  
**DATE: 12...12.2.2020**

## SCHEDULE

### 1. Definitions

In these regulations, unless the context indicates otherwise-

**“Act”** means the Social Service Professions Act 110 of 1978 and includes the regulations, schedules and rules;

**“assessment”** means the process that is undertaken by the Professional Board for Social Work to determine whether an applicant meets all the requirements to register for a speciality in social work;

**“bio-psychosocial”** means systematic consideration of biological, psychological, and social factors and their complex interactions in understanding health, illness, and health care delivery.

**“client system”** means the individual, family, group or community that has either asked for or sanctioned social work services, is expected to benefit from those services and has entered into an agreement of co-operation or a contract with a social worker;

**“Council”** means the South African Council for Social Service Professions established in terms of section 2 of the Act;

**“health establishment”** means, as defined in section 1 of the National Health Act 63 of 2003 the whole or part of a public or private institution, facility, building or place, whether for profit or not, that is operated or designed to provide inpatient or outpatient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative or other health services;

**“health system”** means the national system as defined in section 1 of the National Health Act 63 of 2003, whether within the public or private sector, in which the individual components are concerned with the financing, provision or delivery of health services;

**“health establishment”** means, as defined in section 1 of the National Health Act 63 of 2003 the whole or part of a public or private institution, facility, building or place, whether for profit or not, that is operated or designed to provide inpatient or outpatient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative or other health services;

**“health system”** means the national system as defined in section 1 of the National Health Act 63 of 2003, whether within the public or private sector, in which the individual components are concerned with the financing, provision or delivery of health services;

**“professional board”** means the Professional Board for Social Work established in terms of section 14A of the Act;

**“proficiency”** means an advance knowledge, skill and experience in a certain defined area of social work;

**“rehabilitation”** means, as defined in section 1 of the National Health Act 63 of 2003, a goal-orientated and time-limited process aimed at enabling impaired persons to reach an optimum mental, physical or social 5 functional level;

**“scope or practice”** means the parameters within which a social worker in health care who has met the prescribed registration requirements practise;

**“social work”** means a practise-based profession and an academic discipline that promotes social change and development, social cohesion, and the empowerment and liberation of people with the principles of social justice, human rights, collective responsibility and respect for diversities being central to social work and underpinned by theories of social work, social sciences, humanities and indigenous knowledge. Social work engages people and structures to address life challenges and enhance wellbeing (IFSW and IASSW, 2014);

**“social worker”** means a person registered in terms of section 17 of the Act; and

**“social worker in health care”** means a social worker with specialised knowledge, skills, education, training and experience in social work in health care.

## **2. Requirements for registration of speciality in social work in health care**

(1) These regulations prescribe in accordance with section 17C(1) of the Act the qualifications and proficiencies required to be registered for a speciality in social work in health care.

(2) The South African Council for Social Service Professions shall on application register an applicant for a speciality in social work in health care where the applicant has:

- (a) submitted proof of registration as a social worker in accordance with the provisions of the Act;
- (b) paid the prescribed administration, assessment and moderation fees as determined by the Council at that point in time; and
- (c) submitted proof as contemplated in section 17C(2)(a)(ii) of the Act that he or she complies with one or more of the following prescribed requirements:
  - (i) masters’ degree in social work appropriate to a speciality in social work in health care, plus two years of relevant evidence based practical knowledge and experience within the scope of social work in health care; or
  - (ii) post graduate certificate or diploma appropriate to a speciality in social work in health care, plus three years of relevant evidence based practical knowledge and experience within the scope of social work in health care; or
  - (iii) bachelor’s degree in social work, plus the completion of accredited short course in social work in health care recognised and approved by the Council, on recommendation of the Professional Board for Social Work, with four years of relevant evidence based practical knowledge and experience within the scope of social work in health care; or
  - (iv) bachelor’s degree in social work, with five years of relevant evidence based practical knowledge and experience within the scope of social work in health care.
- (d) The evidence based practical knowledge and experience contemplated in regulation 2(c)(i)-(iv) must meet the assessment criteria of the Council for the purpose of determining whether the social worker concerned has the required proficiencies to practice a speciality in social work in health care.



- (3) (a) A social worker who applies to register for a speciality in social work in health care and does not meet the prescribed requirements in sub-regulation (2), may apply to sit for an examination as contemplated in section 17C(2A)(a) of the Act.
- (b) The examination as contemplated in sub-regulation 2(a) shall be based on specific standards related to the proficiencies for a speciality in social work in health care as approved by the Council, on recommendation of the Professional Board for Social Work.
- (c) For the purpose of the examination as contemplated in regulation 2(a) the Council, on recommendation of the Professional Board of Social Work, shall:
- (i) determine the annual date for the conducting of the examination;
  - (ii) appoint in accordance with section 17C (2A)(a) of the Act at least two external examiners with proven knowledge in social work in health care and at least one representative from the Professional Board of Social Work to prepare and conduct the examination;
  - (iii) determine whether the examination will be in writing or will be oral; and
  - (iv) determine the competence level of such an examination in accordance with section 17C(2A)(a) of the Act.
- (4) An applicant who completed a written or oral examination in social work in health care in accordance with sub-regulation (3), shall be provided with the examination results.
- (5) Only a person who has met the criteria as contemplated in sub-regulation (2), or who has passed the examination as contemplated in sub-regulation (3) may be registered for a speciality in social work in health care.

### **3. Scope of practice for speciality in social work in health care**

- (1) Social work in health care as field of speciality in social work provides social work services within the national health system, including, but not limited to, health establishments, rehabilitation programmes, community-based programmes and private practise.
- (2) Social work in health care includes:
- (a) bio-psychosocial assessment of the client systems to identify and address the biological, psychological and social health challenges within a multi-cultural context;
  - (b) health promotion, education and prevention concerning health challenges in empowering client systems (individuals, families, groups and communities) to improve health outcomes in relation to psychosocial health inequalities to make informed decisions;
  - (c) implement appropriate models of intervention with client systems in line with applicable legislation, policies and procedures;
  - (d) discharge planning focussing on bio-psychosocial adjustment, to ensure optimal functioning within a continuum of care (community-based education, rehabilitation and after care);

- (e) liaise and network with relevant stakeholders, facilitate the development of sustainable resources and refer inter-sectorial where appropriate;
- (f) influence the development of policies, procedures and legislation;
- (g) functioning in collaboration with health service providers and significant others to ensure optimal bio-psychosocial functioning of the client system regarding health challenges; and
- (h) advocate, facilitate, liaise, coordinate and be a catalyst between health service providers and users regarding health service provision.

#### **4. Conditions for practise of speciality in social work in health care**

- (1) A social worker who has complied with the requirements referred to in regulation 2 (2) may in terms of section 17C(2) of the Act be registered for and practise a speciality in social work in health care.
- (2) A social worker who is not registered for a speciality in social work in health care will not be precluded from practising acts related to social work in health care, subject to the provisions of regulation 6
- (3) A social worker who is registered for a speciality in social work in health care should adhere to requirements of the Council pertaining to continuing professional development.
- (4) A social worker after registering for a speciality in social work in health care in terms of section 17C of the Act may practise as a specialist in social work in health care, provided the social worker pays the prescribed annual fee -
  - (a) as a social worker; and
  - (b) for the speciality.
- (5) A social worker after registering a speciality in social work in health care who ceases to comply with any prescribed requirement for the registration of a speciality in social work in health care shall be removed from the Register in accordance with section 17C(3)(b) of the Act.

#### **5. Application for registering speciality in social work in health care**

- (1) Applicants shall complete and submit an application on a form obtainable from the Council together with the required proof that the applicant complies with the requirements for a speciality as contemplated in section 17C(1)(a)(ii) of the Act.
- (2) The application contemplated in sub-regulation (1) shall be accompanied by the following supporting documents-
  - (a) proof of current social work registration with the Council;
  - (b) a certified copy of relevant qualifications or recognised short course contemplated in regulation 2(2)(c)(i)-(iii);
  - (c) proof of payment of the prescribed administration, assessment and moderation fees; and

- (d) a signed letter from the supervisor or relevant consultant or manager confirming years of experience in social work in health care.
- (3) All applications for a speciality in social work in health care shall be assessed as contemplated in section 17C(2)(a)(i) or (ii) of the Act.
- (4) The assessment shall be in line with the criteria based on the standards related to the proficiencies for a speciality in social work in health care.
- (5) The Council, on recommendation of the Professional Board of Social Work, shall approve the criteria and standards contemplated in sub-regulation (4).
- (6) The Registrar and the Professional Board for Social Work shall undertake the assessment contemplated in sub-regulations (3) and (4).

## **6. Use of titles**

- (1) The title '*specialist in social work in health care*' may only be used by a person who has been registered for a speciality in social work in health care in accordance with regulation 2.
- (2) No person may in accordance with section 17C(5) of the Act practise as a social work in health care unless he or she is registered as such in accordance with regulation 2.
- (3) A social worker who has registered a speciality in social work in health care shall display clearly his or her registration certificate as
  - (a) social worker; and
  - (b) specialist in social work in health care.

## **7. Short title and commencement**

These regulations are called the *Regulations relating to the requirements and conditions for registration of a speciality in social work in health care* and come into operation upon publication.

**SOCIAL SERVICE PROFESSIONS ACT, 1978 (Act No. 110 of 1978)****REGULATIONS RELATING TO THE REQUIREMENTS AND CONDITIONS FOR REGISTRATION  
OF A SPECIALITY IN CLINICAL SOCIAL WORK**

I, Lindiwe Zulu, Minister of Social Development intend, in terms of section 28(1)(gA)(i) and (ii) of the Social Service Professions Act, 1978 (Act No. 110 of 1978) and on the recommendation of the South African Council for Social Service Professions and the Professional Board for Social Work, to make the regulations in the Schedule.

Interested persons are invited to submit substantiated written comments or representations on the proposed regulations to the Minister of Social Development, Private Bag X901, Pretoria, 0001 or 134 Pretorius Street, Pretoria, 0001 (for the attention of Ms Galeboe Rapoo); or by email to [Professionalsupport@dsd.gov.za](mailto:Professionalsupport@dsd.gov.za), **within 30 days from the date of publication** of this Notice in the Government Gazette.



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**MS LINDIWE D ZULU, MP**  
**MINISTER OF SOCIAL DEVELOPMENT**  
**DATE: 12...10.2...12020**

## SCHEDULE

### 1. Definitions

In these regulations, unless the context indicates otherwise-

**“Act”** means the Social Service Professions Act 110 of 1978 and includes the regulations, schedules and rules;

**“assessment”** means the process that is undertaken by the Professional Board for Social Work to determine whether an applicant meets all the requirements to register for a speciality in social work;

**“clinical social work”** means a specialised field in social work, practised in various settings, which requires advanced therapeutic competence to intervene in the mental health and other psychosocial consequences of psychiatric, health and other life challenges;

**“clinical social worker”** means a registered social worker with advanced therapeutic competence to intervene in the mental health and other psychosocial consequences of psychiatric, health and other life challenges;

**“Council”** means the South African Council for Social Service Professions established in terms of section 2 of the Act;

**“professional board”** means the Professional Board for Social Work established in terms of section 14A of the Act;

**“proficiency”** means an advance knowledge, skill and experience in a certain defined area of social work;

**“scope or practice”** means the parameters within which a clinical social worker who has met the prescribed registration requirements practise;

**“social work”** means a practise-based profession and an academic discipline that promotes social change and development, social cohesion, and the empowerment and liberation of people with the principles of social justice, human rights, collective responsibility and respect for diversities being central to social work and underpinned by theories of social work, social sciences, humanities and indigenous knowledge. Social work engages people and structures to address life challenges and enhance wellbeing (IFSW and IASSW, 2014); and

**“social worker”** means a person registered in terms of section 17 of the Act.

### 2. Requirements for registration of speciality in clinical social work

(1) These regulations prescribe in accordance with section 17C(1) of the Act the qualifications and proficiencies required to be registered for a speciality in clinical social work.

(2) The South African Council for Social Service Professions shall on application register an applicant for a speciality in clinical social work where the applicant has:

- (a) submitted proof of registration as a social worker in accordance with the provisions of the Act;
  - (b) paid the prescribed administration, assessment and moderation fees as determined by the Council at that point in time; and
  - (c) submitted proof as contemplated in section 17C(2)(a)(ii) of the Act that he or she complies with one or more of the following prescribed requirements:
    - (i) masters' degree in social work appropriate to a speciality in clinical social work, plus two years of relevant evidence based practical knowledge and experience within the scope of clinical social work; or
    - (ii) post graduate certificate or diploma appropriate to a speciality in clinical social work, plus three years of relevant evidence based practical knowledge and experience within the scope of clinical social work; or
    - (iii) bachelor's degree in social work, plus the completion of accredited short course in clinical social work recognised and approved by the Council, on recommendation of the Professional Board for Social Work, with four years of relevant evidence based practical knowledge and experience within the scope of clinical social work; or
    - (iv) bachelor's degree in social work, with five years of relevant evidence based practical knowledge and experience within the scope of clinical social work.
  - (d) The evidence based practical knowledge and experience contemplated in regulation 2(c)(i)-(iv) must meet the assessment criteria of the Council for the purpose of determining whether the social worker concerned has the required proficiencies to practice a speciality in clinical social work.
- (3)
- (a) A social worker who applies to register for a speciality in clinical social work and does not meet the prescribed requirements in sub-regulation (2), may apply to sit for an examination as contemplated in section 17C(2A)(a) of the Act.
  - (b) The examination as contemplated in sub-regulation 2(a) shall be based on specific standards related to the proficiencies for a speciality in clinical social work as approved by the Council, on recommendation of the Professional Board for Social Work.
  - (c) For the purpose of the examination as contemplated in regulation 2(a) the Council, on recommendation of the Professional Board of Social Work, shall:
    - (i) determine the annual date for the conducting of the examination;
    - (ii) appoint in accordance with section 17C (2A)(a) of the Act at least two external examiners with proven knowledge in clinical social work and at least one representative from the Professional Board of Social Work to prepare and conduct the examination;
    - (iii) determine whether the examination will be in writing or will be oral; and
    - (iv) determine the competence level of such an examination in accordance with section 17C(2A)(a) of the Act.

(4) An applicant who completed a written or oral examination in clinical social work in accordance with sub-regulation (3), shall be provided with the examination results.

(5) Only a person who has met the criteria as contemplated in sub-regulation (2), or who has passed the examination as contemplated in sub-regulation (3) may be registered for a speciality in clinical social work.

### **3. Scope of practice for speciality in clinical social work**

(1) Clinical social work practise includes-

- (a) assessment, which involves assessing the mental health and other psychosocial consequences of psychiatric, health and other life challenges;
- (b) therapeutic intervention, which involves the development and implementation of systematic, assessment-based and theoretically grounded services and treatment plans. These may include providing counselling and therapy to individuals, couples, families and small groups drawing on the full range of evolving therapeutic techniques and modalities;
- (c) rigorous systematic documentation;
- (d) review of the treatment outcomes; and
- (e) intra-disciplinary and inter-disciplinary consultative and collaborative practise and appropriate referrals.

### **4. Conditions for practise of speciality in clinical social work**

(1) A social worker who has complied with the requirements referred to in regulation 2 (2) may in terms of section 17C(2) of the Act be registered for and practise a speciality in clinical social work.

(2) A social worker who is not registered for a speciality in clinical social work will not be precluded from practising acts related to clinical social work, subject to the provisions of regulation 6

(3) A social worker who is registered for a speciality in clinical social work should adhere to requirements of the Council pertaining to continuing professional development.

(4) A social worker after registering for a speciality in clinical social work in terms of section 17C of the Act may practise as a specialist in clinical social work, provided the social worker pays the prescribed annual fee -

- (a) as a social worker; and
- (b) for the speciality.

(5) A social worker after registering a speciality in clinical social work who ceases to comply with any prescribed requirement for the registration of a speciality in clinical social work shall be removed from the Register in accordance with section 17C(3)(b) of the Act.

## **5. Application for registering speciality in clinical social work**

- (1) Applicants shall complete and submit an application on a form obtainable from the Council together with the required proof that the applicant complies with the requirements for a speciality as contemplated in section 17C(1)(a)(ii) of the Act.
- (2) The application contemplated in sub-regulation (1) shall be accompanied by the following supporting documents-
  - (a) proof of current social work registration with the Council;
  - (b) a certified copy of relevant qualifications or recognised short course contemplated in regulation 2(2)(c)(i)-(iii);
  - (c) proof of payment of the prescribed administration, assessment and moderation fees; and
  - (d) a signed letter from the supervisor or relevant consultant or manager confirming years of experience in clinical social work.
- (3) All applications for a speciality in clinical social work shall be assessed as contemplated in section 17C(2)(a)(i) or (ii) of the Act.
- (4) The assessment shall be in line with the criteria based on the standards related to the proficiencies for a speciality in clinical social work.
- (5) The Council, on recommendation of the Professional Board of Social Work, shall approve the criteria and standards contemplated in sub-regulation (4).
- (6) The Registrar and the Professional Board for Social Work shall undertake the assessment contemplated in sub-regulations (3) and (4).

## **6. Use of titles**

- (1) The title '*clinical social worker*' may only be used by a person who has been registered for a speciality in clinical social work in accordance with regulation 2.
- (2) No person may in accordance with section 17C(5) of the Act practise as a clinical social worker unless he or she is registered as such in accordance with regulation 2.
- (3) A social worker who has registered a speciality in clinical social work shall display clearly his or her registration certificate as
  - (a) social worker; and
  - (b) clinical social worker.

## **7. Repeal of regulations**

These regulations repeal the *Regulations relating to the registration of a speciality in clinical social work* published in Government Notice 913 (Government Gazette 41082 of 1 September 2017).



## **8. Short title and commencement**

These regulations are called the *Regulations relating to the requirements and conditions for registration of a speciality in clinical social work* and come into operation upon publication.

**SOCIAL SERVICE PROFESSIONS ACT, 1978 (Act No. 110 of 1978)****REGULATIONS RELATING TO THE REQUIREMENTS AND CONDITIONS FOR REGISTRATION  
OF A SPECIALITY IN FORENSIC SOCIAL WORK**

I, Lindiwe Zulu, Minister of Social Development intend, in terms of section 28(1)(gA)(i) and (ii) of the Social Service Professions Act, 1978 (Act No. 110 of 1978) and on the recommendation of the South African Council for Social Service Professions and the Professional Board for Social Work, to make the regulations in the Schedule.

Interested persons are invited to submit substantiated written comments or representations on the proposed regulations to the Minister of Social Development, Private Bag X901, Pretoria, 0001 or 134 Pretorius Street, Pretoria, 0001 (for the attention of Ms Galeboe Rapoo); or by email to [Professionalsupport@dsd.gov.za](mailto:Professionalsupport@dsd.gov.za), **within 30 days from the date of publication** of this Notice in the Government Gazette.



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**MS LINDIWE D ZULU, MP**  
**MINISTER OF SOCIAL DEVELOPMENT**  
**DATE: 12...12.2.2020**

## SCHEDULE

### 1. Definitions

In these regulations, unless the context indicates otherwise-

**"Act"** means the Social Service Professions Act 110 of 1978 and includes the regulations, schedules and rules;

**"assessment"** means the process that is undertaken by the Professional Board for Social Work to determine whether an applicant meets all the requirements to register for a speciality in social work;

**"Council"** means the South African Council for Social Service Professions established in terms of section 2 of the Act;

**"expert testimony"** means a written and/or oral evidence provided by a person who is qualified and has regarding scientific, technical, or professional matters;

**"forensic social work assessment"** means an investigation of a specific matter by application of scientific assessment methods or processes designed to answer a question or a set of questions to establish the facts of the matter within the court of law;

**"forensic social work investigation"** means conducting a process of forensic assessments using forensic social work knowledge, techniques and tools in order to compile a forensic social work report with accurate information to establish facts or evidence that can be used in courts of law;

**"forensic social work report"** means a written report based on a body of scientific knowledge on forensic social work, the facts, assessment, findings and recommendations prepared by a forensic social worker;

**"forensic social work techniques"** means the application of evidence based social work assessment methods and tools used to analyse and interpret information;

**"forensic social work"** is a specialised field in social work that focuses on the interface between the legal system and the secondary client (the individual, family, organisation or institution being assessed) and is characterised by the primary function of providing expert testimonies in courts of law;

**"forensic social worker"** means a registered social worker with advanced scientific and specialised knowledge, skills, training and education and experience in forensic social work, who provides the court with written or oral impartial and factual expert testimony;

**"primary client"** means a court of law or a body that commissions a forensic social work investigation;

**"professional board"** means the Professional Board for Social Work established in terms of section 14A of the Act;

**"proficiency"** means an advance knowledge, skill and experience in a certain defined area of social work;

**“scope or practice”** means the parameters within which a forensic social worker who has met the prescribed registration requirements practise;

**“social work”** means a practise-based profession and an academic discipline that promotes social change and development, social cohesion, and the empowerment and liberation of people with the principles of social justice, human rights, collective responsibility and respect for diversities being central to social work and underpinned by theories of social work, social sciences, humanities and indigenous knowledge. Social work engages people and structures to address life challenges and enhance wellbeing (IFSW and IASSW, 2014); and

**“social worker”** means a person registered in terms of section 17 of the Act.

## **2. Requirements for registration of speciality in forensic social work**

(1) These regulations prescribe in accordance with section 17C(1) of the Act the qualifications and proficiencies required to be registered for a speciality in forensic social work.

(2) The South African Council for Social Service Professions shall on application register an applicant for a speciality in forensic social work where the applicant has:

- (a) submitted proof of registration as a social worker in accordance with the provisions of the Act;
  - (b) paid the prescribed administration, assessment and moderation fees as determined by the Council at that point in time; and
  - (c) submitted proof as contemplated in section 17C(2)(a)(ii) of the Act that he or she complies with one or more of the following prescribed requirements:
    - (i) masters’ degree in social work appropriate to a speciality in forensic social work, plus two years of relevant evidence based practical knowledge and experience within the scope of forensic social work; or
    - (ii) post graduate certificate or diploma appropriate to a speciality in forensic social work, plus three years of relevant evidence based practical knowledge and experience within the scope of forensic social work; or
    - (iii) bachelor’s degree in social work, plus the completion of accredited short course in forensic social work recognised and approved by the Council, on recommendation of the Professional Board for Social Work, with four years of relevant evidence based practical knowledge and experience within the scope of forensic social work; or
    - (iv) bachelor’s degree in social work, with five years of relevant evidence based practical knowledge and experience within the scope of forensic social work.
  - (d) The evidence based practical knowledge and experience contemplated in regulation 2(c)(i)-(iv) must meet the assessment criteria of the Council for the purpose of determining whether the social worker concerned has the required proficiencies to practice a speciality in forensic social work.
- (3) (a) A social worker who applies to register for a speciality in forensic social work and does not meet the prescribed requirements in sub-regulation (2), may apply to sit for an

examination as contemplated in section 17C(2A)(a) of the Act.

- (b) The examination as contemplated in sub-regulation 2(a) shall be based on specific standards related to the proficiencies for a speciality in forensic social work as approved by the Council, on recommendation of the Professional Board for Social Work.
- (c) For the purpose of the examination as contemplated in regulation 2(a) the Council, on recommendation of the Professional Board of Social Work, shall:
  - (i) determine the annual date for the conducting of the examination;
  - (ii) appoint in accordance with section 17C (2A)(a) of the Act at least two external examiners with proven knowledge in forensic social work and at least one representative from the Professional Board of Social Work to prepare and conduct the examination;
  - (iii) determine whether the examination will be in writing or will be oral; and
  - (iv) determine the competence level of such an examination in accordance with section 17C(2A)(a) of the Act.

(4) An applicant who completed a written or oral examination in forensic social work in accordance with sub-regulation (3), shall be provided with the examination results.

(5) Only a person who has met the criteria as contemplated in sub-regulation (2), or who has passed the examination as contemplated in sub-regulation (3) may be registered for a speciality in forensic social work.

### **3. Scope of practice for speciality in forensic social work**

- (1) Forensic social work practice includes-
  - (a) conducting forensic social work investigations of all cases that require forensic assessment using scientifically validated protocols and techniques in relation to forensic social work;
  - (b) applying relevant legislation;
  - (c) applying forensic social work techniques to obtain and interpret data used in the compilation of the forensic social work report;
  - (d) compiling and submitting evidence based forensic social work reports to primary clients;
  - (e) providing expert testimony on relevant matters in a court of law;
  - (f) engaging in research and developing the field of forensic social work.
- (2) Forensic social work scope of practice excludes-
  - (a) generic social work assessments;
  - (b) clinical social work;
  - (c) therapeutic interventions;
  - (d) probation services in terms of the Probation Services Act 116 of 1991;

- (e) victim impact reports; and
- (f) child protection assessment and related investigation in terms of the Children's Act 38 of 2005.

#### **4. Conditions for practise of speciality in forensic social work**

- (1) A social worker who has complied with the requirements referred to in regulation 2 (2) may in terms of section 17C(2) of the Act be registered for and practise a speciality in forensic social work.
- (2) A social worker who is not registered for a speciality in forensic social work will not be precluded from practising acts related to forensic social work, subject to the provisions of regulation 6.
- (3) A social worker who is registered for a speciality in forensic social work should adhere to requirements of the Council pertaining to continuing professional development.
- (4) A social worker after registering for a speciality in forensic social work in terms of section 17C of the Act may practise as a specialist in forensic social work, provided the social worker pays the prescribed annual fee -
  - (a) as a social worker; and
  - (b) for the speciality.
- (5) A social worker after registering a speciality in forensic social work who ceases to comply with any prescribed requirement for the registration of a speciality in forensic social work shall be removed from the Register in accordance with section 17C(3)(b) of the Act.

#### **5. Application for registering speciality in forensic social work**

- (1) Applicants shall complete and submit an application on a form obtainable from the Council together with the required proof that the applicant complies with the requirements for a speciality as contemplated in section 17C(1)(a)(ii) of the Act.
- (2) The application contemplated in sub-regulation (1) shall be accompanied by the following supporting documents-
  - (a) proof of current social work registration with the Council;
  - (b) a certified copy of relevant qualifications or recognised short course contemplated in regulation 2(2)(c)(i)-(iii);
  - (c) proof of payment of the prescribed administration, assessment and moderation fees
  - (d) a signed letter from the supervisor or relevant consultant or manager confirming years of experience in forensic social work.
- (3) All applications for a speciality in forensic social work shall be assessed as contemplated in section 17C(2)(a)(i) or (ii) of the Act.
- (4) The assessment shall be in line with the criteria based on the standards related to the

proficiencies for a speciality in forensic social work.

(5) The Council, on recommendation of the Professional Board of Social Work, shall approve the criteria and standards contemplated in sub-regulation (4).

(6) The Registrar and the Professional Board for Social Work shall undertake the assessment contemplated in sub-regulations (3) and (4).

## **6. Use of titles**

(1) The title '*forensic social worker*' may only be used by a person who has been registered for a speciality in forensic social work in accordance with regulation 2.

(2) No person may in accordance with section 17C(5) of the Act practise as a forensic social worker unless he or she is registered as such in accordance with regulation 2.

(3) A social worker who has registered a speciality in forensic social work shall display clearly his or her registration certificate as

- (a) social worker; and
- (b) forensic social worker.

## **7. Repeal of regulations**

These regulations repeal the *Regulations relating to the registration of a speciality in forensic social work published in Government Notice 912 (Government Gazette 41082 of 1 September 2017)*.

## **8. Short title and commencement**

These regulations are called the *Regulations relating to the requirements and conditions for registration of a speciality in forensic social work* and come into operation upon publication.

**Social Service Professions Act 110 of 1978****REGULATIONS RELATING TO THE REQUIREMENTS AND CONDITIONS FOR  
REGISTRATION OF A SPECIALITY IN ADOPTION SOCIAL WORK**

I, Lindiwe Zulu, Minister of Social Development intend, in terms of section 28(1)(gA)(i) and (ii) of the Social Service Professions Act, 1978 (Act No. 110 of 1978) and on the recommendation of the South African Council for Social Service Professions and the Professional Board for Social Work, to make the regulations in the Schedule.

Interested persons are invited to submit substantiated written comments or representations on the proposed regulations to the Minister of Social Development, Private Bag X901, Pretoria, 0001 or 134 Pretorius Street, Pretoria, 0001 (for the attention of Ms Galeboe Rapoo); or by email to [Professionalsupport@dsd.gov.za](mailto:Professionalsupport@dsd.gov.za), **within 30 days from the date of publication** of this Notice in the Government Gazette.



.....  
**MS LINDIWE D ZULU, MP**  
**MINISTER OF SOCIAL DEVELOPMENT**  
**DATE: 12...12.2..2020**



## SCHEDULE

### 1. Definitions

In these Regulations, unless the context indicates otherwise-

**“Act”** means the Social Service Professions Act 110 of 1978 and includes the regulations, schedules and rules;

**“adoption services”** means adoption services as defined in section 1 of the Children’s Act 38 of 2005;

**“adoption social worker”** refers to adoption social worker as defined in section 1 of the Children’s Act 38 of 2005;

**“adoption social worker (provisionally registered)”** refers social worker registered in terms of regulation 2(2)(v);

**“adoption”** means the placement of a child in the permanent care of a person in terms of a court order as contemplated in section 228 of the Children’s Act 38 of 2005;

**“assessment”** means an objective process of investigating , screening and analysing of the child, the biological parents and prospective adoptive parent/s and the factors that influence the adoption by using relevant assessment tools;

**“Council”** means the South African Council for Social Service Professions established in terms of section 2 of the Act;

**“counselling”** means social work intervention aimed at guiding the parties in an adoption towards insight regarding all options including the processes and procedures of adoptions and its implications;

**“Minister”**, unless otherwise indicated, means the Minister to whom the administration of the Act has been assigned;

**“origin enquiries”** means enquiries pertaining to the background information and access to adoption information of the person adopted, biological parents or adoptive parents in terms of section 248 of the Children’s Act 38 of 2005;

**“professional board”** means the Professional Board for Social Work established in terms of section 14A of the Act;

**“proficiency”** means an advance knowledge, skill and experience in a certain defined area of social work;

**“scope of practice”** means the parameters within which a social worker who has met the prescribed registration requirements practise;

**“social work”** means a practise-based profession and an academic discipline that promotes social change and development, social cohesion, and the empowerment and liberation of people with the principles of social justice, human rights, collective responsibility and respect for diversities being central to social work and underpinned by theories of social work, social sciences, humanities and indigenous knowledge. Social work engages people and structures to address life challenges and enhance wellbeing (IFSW and IASSW, 2014);

**“social worker”** means a person registered in terms of section 17 of the Act; and

**“suitability”** means the assessment of whether the prospective adoptive parent/s are fit and proper to be entrusted with full parental responsibilities and rights as provided for in section 231(2) and (3) of the Children's Act 38 of 2005.

## **2. Requirements for registration of speciality in adoption social work**

- (1) These regulations prescribe in accordance with section 17C(1) of the Act the qualifications and proficiencies required to be registered for a speciality in adoption social work.
- (2) The South African Council for Social Service Professions shall on application register an applicant for a speciality in adoption social work where the applicant has:
  - (a) submitted proof of registration as a social worker in accordance with the provisions of the Act;
  - (b) paid the prescribed administration fee, assessment and moderation fee as determined by the Council at that point in time; and
  - (c) submitted proof as contemplated in section 17C(2)(a)(ii) of the Act that he or she complies with one or more of the following prescribed requirements:
    - (i) master's degree in social work appropriate to a speciality in adoption social work, plus two years of relevant evidence based practical knowledge and experience within the scope of adoption social work; or
    - (ii) postgraduate certificate or diploma appropriate to a speciality in adoption social work, plus three years of relevant evidence based practical knowledge and experience within the scope of adoption social work; or
    - (iii) bachelor's degree in social work, plus the completion of accredited short course in adoption social work recognised and approved by the Council, on recommendation of the Professional Board for Social Work, with four years of relevant evidence based practical knowledge and experience within the scope of adoption social work; or
    - (iv) bachelor's degree in social work, with five years of relevant evidence based practical knowledge and experience within the scope of adoption social work. The evidence-based practical knowledge and experience must meet the assessment criteria of the Council for the purpose of determining whether the social worker concerned has the required proficiencies to practise a speciality in adoption social work; or

- (v) bachelor's degree in social work, with three years appropriate and evidence-based practical knowledge and experience of social work in child protection services may apply for provisional registration. A person who has been provisionally registered may apply for full registration as a specialist in adoption social work provided that he or she has two years of experience in adoption social work under the monthly supervision of a social worker registered for a speciality in adoption social work; and has completed the required minimum continuing professional development in adoption social work and must meet the assessment criteria of the Council for the purpose of determining whether the social worker concerned has the required proficiencies to practise a speciality in adoption social work.
- (d) The evidence based practical knowledge and experience contemplated in regulation 2(c)(i)-(iv) must meet the assessment criteria of the Council for the purpose of determining whether the social worker concerned has the required proficiencies to practice a speciality in adoption social work.
- (3)
  - (a) A social worker who applies to register for a speciality in adoption social work and does not meet the prescribed requirements in sub-regulation (2), may apply to sit for an examination as contemplated in section 17C(2A)(a) of the Act.
  - (b) The examination as contemplated in sub-regulation 3(a) shall be based on specific standards related to the proficiencies for a speciality in adoption social work as approved by the Council, on recommendation of the Professional Board for Social Work.
  - (c) For the purpose of the examination as contemplated in regulation 2(a) the Council, on recommendation of the Professional Board of Social Work, shall:
    - (i) determine the annual date for the conducting of the examination;
    - (ii) appoint in accordance with section 17C (2A)(a) of the Act at least two external examiners with proven knowledge in adoption social work and at least one representative from the Professional Board of Social Work to prepare and conduct the examination;
    - (iii) determine whether the examination will be in writing or will be oral; and
    - (iv) determine the competence level of such an examination in accordance with section 17C(2A)(a) of the Act.
- (4) An applicant who completed a written or oral examination in adoption social work in accordance with sub-regulation (3), shall be provided with the examination results.
- (5) Only a person who has met the criteria as contemplated in sub-regulation (2), or who has passed the examination as contemplated in sub-regulation (3) may be registered for a speciality in adoption social work.

### **3. Scope of practice for speciality in adoption social work**

- (1) Adoption social work includes following-

- (a) any service prescribed in terms of the Children's Act 38 of 2005 to be executed by an adoption social worker;
  - (b) therapeutic counselling of the biological parent(s) and/or legal guardian(s) and preparation for the adoption;
  - (c) therapeutic counselling and assessment of the adoptability of the child, monitoring and preparation of the child for placement;
  - (d) recruitment, therapeutic counselling, assessment of suitability, adoption training and preparation of prospective adoptive parent(s);
  - (e) gathering of information and preparation of reports pertaining to proposed adoption in terms of the Children's Act 38 of 2005;
  - (f) post-adoption counselling, support and education to biological parent(s), adoptee and adoptive parent/s; and/or
  - (g) origin enquiries and tracing of parties involved with an adoption.
- (2) The rendering of adoption services is governed by the principle of the best interest of the child with due consideration of section 28(2) of the Constitution of the Republic of South Africa, 1996, and section 7 of the Children's Act (No 38 of 2005).

#### **4. Conditions for practise of speciality in adoption social work**

- (1) A social worker who has complied with the requirements referred to in regulation 2(2) may in terms of section 17C(2) of the Act be registered for and practise a speciality in adoption social work.
- (2) A social worker who is registered for a speciality in adoption social work should adhere to requirements of the Council pertaining to continuing professional development.
- (3) A social worker after registering a speciality in adoption social work in terms of section 17C of the Act may practise as a specialist in adoption social work provided the social worker pays the prescribed annual fee -
- (a) as a social worker; and
  - (b) for the speciality.
- (4) A social worker after registering a speciality in adoption social work who ceases to comply with any prescribed requirement for the registration of a speciality in adoption social work shall be removed from the Register in accordance with section 17C(3)(b) of the Act.

#### **5. Application for registering speciality in adoption social work**

- (1) Applicants shall complete and submit an application on a form obtainable from the Council together with the required proof that the applicant complies with the requirements for a speciality as contemplated in section 17C(1)(a)(ii) of the Act.

(2) The application contemplated in sub-regulation (1) shall be accompanied by the following supporting documents-

- (a) proof of current social work registration with Council;
- (b) a certified copy of relevant qualifications or recognised short course contemplated in regulation 2(2)(c)(i)-(iii);
- (c) proof of payment of the prescribed administration, assessment and moderation fees
- (d) a signed letter from the supervisor or relevant consultant or manager confirming years of experience in adoption social work or for applications made as contemplated in regulation (2)(c)(v), a letter that confirms 3 years' working experience of social work in child protection services.

(3) All applications for a speciality in adoption social work shall be assessed as contemplated in section 17C(2)(a)(i) or (ii) of the Act.

(4) The assessment shall be in line with the criteria based on the standards related to the proficiencies for a speciality in adoption social work.

(5) The Council, on recommendation of the Professional Board of Social Work, shall approve the criteria and standards contemplated in sub-regulation (4).

(6) The Registrar and the Professional Board for Social Work shall undertake the assessment contemplated in sub-regulations (3) and (4).

## 6. Use of titles

(1) The title '*specialist in adoption social work*' or '*adoption social worker*' may only be used by a person who has been registered a speciality in adoption social work in accordance with regulation 2; or a person who has been provisionally registered for a speciality in adoption social work in accordance with regulation 2(2)(v) who must attach the affix 'provisionally registered' after the title '*specialist in adoption social work*' or '*adoption social worker*'.

(2) No person may in accordance with section 17C(5) of the Act practise as a specialist in adoption social work unless he or she is registered as such in accordance with regulation 2.

(3) A social worker who has registered a speciality in adoption social work shall display clearly his or her registration certificate as

- (a) social worker; and
- (b) adoption social worker.

## 7. Repeal

These regulations shall repeal the *Regulations relating to the registration of a speciality in adoption work* published in Government Notice 449 (Government Gazette 19930 dated 16 April 1999).

**8. Short title and commencement**

These regulations are called the *Regulations relating to the requirements and conditions for registration of a speciality in adoption social work* and come into operation upon publication.

**SOUTH AFRICAN REVENUE SERVICE**

NO. R. 583

22 MAY 2020

**GENERAL EXPLANATORY NOTE:**

[     ] Words that are between square brackets and in bold typeface, indicate deletions from the existing rules

\_\_\_\_\_ Words that are underlined with a solid line, indicate insertions in the existing rules

**CUSTOMS AND EXCISE ACT, 1964****AMENDMENT OF RULES**

Under sections 107, 110 and 120 of the Customs and Excise Act, 1964 (Act No. 91 of 1964), the rules published in Government Notice R.1874 of 8 December 1995, are herewith amended to the extent set out in the Schedule hereto. This amendment will take effect 30 days after publication of this Notice.

**EDWARD CHRISTIAN KIESWETTER****COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE****SCHEDULE****1. Insertion of rule 107A**

The following rule is hereby inserted after the rules for section 106:

**“RULES FOR SECTION 107A OF THE ACT****Requirements in respect of tobacco growers and tobacco leaf dealers**

107A.01 (a) For the purposes of this rule –

**“tobacco grower”** means any person who engages in the farming of tobacco leaf product;

**“tobacco leaf dealer”** means any person who engages in the storing, processing or transacting of tobacco leaf product, excluding the farming thereof;

**“tobacco leaf processing”** means any preliminary, intermediate or supplementary process in connection with tobacco leaf product, including the drying and threshing thereof.

**“tobacco leaf product”** means tobacco not stemmed or stripped, tobacco partly or wholly stemmed or stripped, or tobacco refuse;

**“tobacco not stemmed or stripped”** means tobacco classified under tariff subheading 2401.10 of Section IV of Part 1 of Schedule No. 1;

**“tobacco partly or wholly stemmed or stripped”** means tobacco classified under tariff subheading 2401.20 of Section IV of Part 1 of Schedule No. 1; and

**“tobacco refuse”** means tobacco classified under tariff subheading 2401.30 of Section IV of Part 1 of Schedule No. 1.

**(b) Every tobacco leaf dealer shall register for that purpose with the Commissioner on form DA 185 and the appropriate annexure in terms of section 59A and the rules thereto.**

**(c) Every tobacco grower and tobacco leaf dealer shall –**

**(i) keep records in respect of –**

**(aa) each receipt of tobacco leaf product, including the name, address and customs and excise client number of the supplier;**

**(bb) the date, volume, value and detailed description of each such receipt of tobacco leaf product;**

**(cc) the tobacco leaf processing carried out in respect of each such receipt of tobacco leaf product;**

**(dd) the person on whose behalf such tobacco leaf processing was carried out, including the name, address and customs and excise client number of such person;**

**(ee) each supply of tobacco leaf product, including the name, address and customs and excise client number of the recipient;**

**and**



- (ff) the date, volume, value and detailed description of each such supply of tobacco leaf product; and
- (ii) retain such records and the documents in support thereof available for inspection by the Commissioner for a period of five years calculated from the end of the calendar year in which any such record was created.”

## **2. Insertion of rule 110**

The following rule is hereby inserted after the rules for section 107A:

### **RULES FOR SECTION 110 OF THE ACT**

#### **Product counters on cigarette production lines**

110.01 For the purposes of these rules -

- (a) “cigarette packaging machine” means any machine used in the packing of any cigarettes.
- (b) “cigarette production line” means any sequence or combination of machines used in the manufacture of cigarettes.

110.02 The licensee of a customs and excise manufacturing warehouse for the manufacture of cigarettes shall calculate the quantities of all cigarettes manufactured in the warehouse by means of a functional product counter on each cigarette packaging machine.

110.03 For the purposes of rule 110.02, the licensee shall -

- (a) ensure that a product counter is installed and maintained on each cigarette packaging machine according to the specifications of the manufacturer of such cigarette packaging machine and the manufacturer of such product counter respectively;
- (b) ensure that a device is installed and maintained for the recording of data for each product counter on the quantities of all cigarettes manufactured;

- (c) seal any inoperative cigarette packaging machine or cigarette production line with a tamper-proof security seal under the supervision of an officer;
- (d) conserve any security seal and only allow the seal to be removed and replaced under the supervision of an officer;
- (e) bear the cost of installing and maintaining any product counter and data recording device; and
- (f) bear the cost of installing and conserving any security seal.

110.04 The licensee shall comply with the provisions of rule 110.03 -

- (a) within 30 days after the commencement of these rules;
- (b) within 30 days after the acquisition of any operative cigarette packaging machine after the commencement of these rules; or
- (c) within an alternative period the Commissioner may allow upon a request in writing from such licensee.

110.05 The licensee shall record and report to the Commissioner –

- (a) annually the layout in the warehouse of each product counter and its data recording device per cigarette packaging machine per cigarette production line;
- (b) daily the readings of each product counter and its data recording device per cigarette packaging machine per cigarette production line and per cigarette production run;
- (c) immediately upon occurrence the –
  - (i) resetting, deactivation or malfunction of any product counter or data recording device;
  - (ii) deactivation or malfunction of any operative cigarette packaging machine or cigarette production line;
  - (iii) breach or malfunction of any security seal
  - (iv) activation of any inoperative cigarette packaging machine or cigarette production line;
  - (v) alteration of any cigarette packaging machine or cigarette production line that impacts on any product counter or data recording device; or
  - (vi) acquisition, installation, sale or removal of any cigarette packaging machine or cigarette production line; and

(d) retain the records available for inspection by the Commissioner for a period of five years calculated from the end of the calendar year in which any such record was created.

110.06 If for any reason the quantities of all cigarettes manufactured cannot be determined as prescribed in rule 110.02, the licensee may request approval in writing from the Commissioner for an alternative methodology to be used.

### **3. Substitution of form**

Item 202.00 of the Schedule to the rules is hereby amended by the substitution for form DA 185 of the following form:

“DA 185 Application form: Registration/Licensing of Customs and Excise Clients”

### **4. Insertion of form**

Item 202.00 of the Schedule to the rules is hereby amended by the insertion for form DA 185.4A17 of the following form:

“DA 185.4A17 Registration client type 4A17 – Registered tobacco leaf dealer”



DA 185

## APPLICATION FORM: REGISTRATION / LICENSING OF CUSTOMS AND EXCISE CLIENTS

For official use

| <b>1. NOTES FOR COMPLETION OF THE DA 185 AND ITS ANNEXURES</b>   |   |                          |  |  |                          |
|--|---|--------------------------|--|--|--------------------------|
| <p>1. Where the asterisk (*) appears, delete whichever is not applicable.</p> <p>2. Indicate with an "X" in the appropriate block(s) whichever is applicable.</p> <p>3. Complete the appropriate annexure.</p> <p>4. If the space provided on form DA185 and applicable annexure(s) is insufficient, the information must be furnished on a separate page, which must be attached to the form DA185 and the annexures.</p> <p>5. Reflect the relevant customs and excise client number, customs and excise warehouse number or rebate user number when applying for the amendment of existing information or for a total cancellation per client type.</p> <p>6. Where security must be furnished, complete and submit annexure DA 185.C.</p> <p>7. A foreign principal must complete and submit annexure DA 185.D.</p> <p>8. Complete and submit (if applicable) the appropriate prescribed agreement.</p> <p>9. All references to sections and rules pertain to the Customs and Excise Act, 1964 (the Act).</p> <p>10. All Customs and Excise forms are available on the SARS website (<a href="http://www.sars.gov.za">www.sars.gov.za</a>) or at any SARS branch office.</p> |   |                          |  |  |                          |
| <b>2. EXISTING REGISTRANT/LICENSEE PARTICULARS</b>   |   |                          |  |  |                          |
| If currently registered/licensed with SARS, please state allocated customs client number.  |   |                          |  |  |                          |
| <b>3. NATIONALITY</b>  |   |                          |  |  |                          |
| Natural person, who is:  |   |                          | Juristic person, that is:  |  |                          |
| Located in the RSA: Yes <input type="checkbox"/> No <input type="checkbox"/>   |   |                          | Located in the RSA: Yes <input type="checkbox"/> No <input type="checkbox"/> |  |                          |
| <b>4. PURPOSE OF APPLICATION</b>   |   |                          |  |  |                          |
| New Registration/Licensee or renewal:  |   | <input type="checkbox"/> | Amendment of existing information:   |  | <input type="checkbox"/> |
|  |   |                          | Cancellation:  |  | <input type="checkbox"/> |
| <b>5. ANNEXURES</b>  |   |                          |  |  |                          |
| Annexure   | Registration  | Tick box                 | Annexure   | Licensing  | Tick box                 |
| DA 185 4A1   | Importer (Local or Foreign)   | <input type="checkbox"/> | DA 185 4B1   | Special Manufacturing Warehouse – (Section 21 and the rules thereto)                             | <input type="checkbox"/> |
| DA 185 4A2   | Exporter (Local or Foreign)   | <input type="checkbox"/> | DA 185 4B2   | Manufacturing Warehouse – (Sections 19A, 27, 54E, 54J, 54AA and the rules thereto)               | <input type="checkbox"/> |
| DA 185 4A2   | Exporter for SADC, SADC-EPA, SACU/EFTA and SACU/MERCOSUR – (rule 59A.01, rules 49A, 49B, 49D and 49E) | <input type="checkbox"/> | DA 185 4B3   | Storage Warehouse  | <input type="checkbox"/> |
| DA 185 4A2 (Section A) & Form DA 46A1.02   | Exporter for AGOA – (rules 46A1.02)   | <input type="checkbox"/> | DA 185 4B4   | Special Storage Warehouse (Sections 19A and 21 and the rules thereto)                            | <input type="checkbox"/> |
| DA 185 4A2 (Section B) & Form DA 49A.02  | Approved Exporter – SADC-EPA or SACU/EFTA – (rules 49A.18 (19), (20) and 49D.18(19)(20))              | <input type="checkbox"/> | DA 185 4B5   | Clearing Agent – (Section 64B and the rules thereto)   | <input type="checkbox"/> |
| DA 185 4A2 (Section C) & Form DA 46A.01  | Exporter for GSP (various countries) – (relevant rules for section 46A)                               | <input type="checkbox"/> | DA 185 4B6   | Remover of goods in Bond (Local or Foreign) – (Section 64D and the rule thereto)                 | <input type="checkbox"/> |
| DA 185 4A3   | Rebate User (Schedule Nos. 3, 4 and 6) – (Section 75 and the rules thereto)                           | <input type="checkbox"/> | DA 185 4B7   | Distributor of Fuel – (Section 64F and the rules thereto)  | <input type="checkbox"/> |
| DA 185 4A4 & DA 46A1.03  | Manufacturer – (Section 46)   | <input type="checkbox"/> | DA 185 4B8   | Special Ad Valorem Manufacturing Warehouse – (Section 36A and the rules thereto)                 | <input type="checkbox"/> |
| DA 185 4A5   | Special APDP Manufacturing Warehouse:   | <input type="checkbox"/> | DA 185 4B9   | Storage Warehouse (Customs Controlled Area Enterprise) – (Sections 19A, 21, 21A and Rule 21A.10) | <input type="checkbox"/> |
| <b>5. ANNEXURES (continued)</b>  |   |                          |  |  |                          |

|                             |   |                          |             |  |                          |
|-----------------------------|---|--------------------------|-------------|--|--------------------------|
| DA 185 4A6                  | Electronic Communication with SARS – (Section 101A and the rules thereto)   | <input type="checkbox"/> | DA 185 4B10 | Manufacturing Warehouse (Customs Controlled Area Enterprise) – (Sections 19A, 21A, 27 and Rule 21A.10) | <input type="checkbox"/> |
| DA 185 4A7 & Form DA 46A.02 | Producer for SADC, SADC-EPA, SACU/EFTA, SACU/MERCOSUR and GSP – (rule 59A.01, rules 49A, 49B, 49D, 49E and 46A2.18)   | <input type="checkbox"/> | DA 185 4B11 | Distillation of spirits by an agricultural distiller   | <input type="checkbox"/> |
| DA 185 4A8                  | Commercial manufacturer of biodiesel – (Section 37B and rule 37B.02(b))   | <input type="checkbox"/> | DA 185 4B12 | To own, possess or keep stills   | <input type="checkbox"/> |
| DA 185 4A9                  | Non-commercial manufacturer of biodiesel – (Section 37B and rule 37B.02(a))   | <input type="checkbox"/> | DA 185 4B13 | To manufacture or import stills for sale or to repair stills for reward                                | <input type="checkbox"/> |
| DA 185 4A10                 | Manufacturer in terms of drawback items 501.00 to 521.00 (Note 2(a) to Part 1 of Schedule No. 5)                      | <input type="checkbox"/> |             |  |                          |
| DA185 4A11                  | Special Economic Zone Operator and/or designation of a Customs Controlled Area (CCA) – (Sections 21A and Rule 21A.04) | <input type="checkbox"/> | DA 185 C    | Security Particulars   | <input type="checkbox"/> |
| DA 185 4A12                 | Electricity Producer – (Section 59A and Rule 54FA.04)   | <input type="checkbox"/> | DA 185 D    | Nomination of registered agent by foreign principal  | <input type="checkbox"/> |
| DA 185 4A13                 | Registered Agent  | <input type="checkbox"/> |             |  |                          |
| DA 185 4A14                 | Registered Still  | <input type="checkbox"/> |             |  |                          |
| DA 185 4A15                 | Manufacture of excisable goods solely for own use by the manufacturer   | <input type="checkbox"/> |             |  |                          |
| DA 185 4A16                 | Non-commercial manufacturer of sugary beverages (Section 59A and Rule 54I.03)   | <input type="checkbox"/> |             |  |                          |
| DA 185.4A17                 | Tobacco leaf dealer   | <input type="checkbox"/> |             |  |                          |

**6. BUSINESS / PERSON PARTICULARS**

|   |              |             |                              |              |             |
|---|--------------|-------------|------------------------------|--------------|-------------|
| Registered name of business or name of applicant: |              |             |                              |              |             |
| Business address: Street name and number:         |              |             |                              |              |             |
| Building name and floor number:                   |              |             |                              |              |             |
| Suburb:   |              |             |                              |              |             |
| City/Town:  |              |             |                              | Street code: |             |
| Postal address:                                   |              |             |                              |              |             |
| Suburb:   |              |             |                              |              |             |
| City/Town:  |              |             |                              | Postal code  |             |
| Business Telephone (Including code):              | Code: (____) | Tel. (____) | Fax number (Including code): | Code: (____) | Fax. (____) |
| Cellular phone number:                            |              |             | Business e-mail address:     |              |             |

**7. SOUTH AFRICAN BANK ACCOUNT DETAILS**

|   |  |                          |             |  |  |  |  |  |  |  |            |                          |          |                          |               |                          |  |  |  |
|---|--|--------------------------|-------------|--|--|--|--|--|--|--|------------|--------------------------|----------|--------------------------|---------------|--------------------------|--|--|--|
| Mark if you do not have a local savings or cheque account |  | <input type="checkbox"/> | Account No: |  |  |  |  |  |  |  |            |                          |          |                          |               |                          |  |  |  |
| Branch Name:  |  |                          |             |  |  |  |  |  |  |  | Branch No: |                          |          |                          |               |                          |  |  |  |
| Bank Name:  |  |                          |             |  |  |  |  |  |  |  | Cheque:    | <input type="checkbox"/> | Savings: | <input type="checkbox"/> | Transmission: | <input type="checkbox"/> |  |  |  |
| Account Holder Name:                                      |  |                          |             |  |  |  |  |  |  |  |            |                          |          |                          |               |                          |  |  |  |

**8. SARS REVENUE IDENTIFICATION NUMBERS (if applicable)**

|                             |   |  |  |  |  |  |  |  |  |  |  |  |  |  |  |                                  |   |  |  |  |  |  |  |  |  |  |  |  |  |  |
|-----------------------------|---|--|--|--|--|--|--|--|--|--|--|--|--|--|--|----------------------------------|---|--|--|--|--|--|--|--|--|--|--|--|--|--|
| i. VAT Registration Number: | 4 |  |  |  |  |  |  |  |  |  |  |  |  |  |  | ii. Income Tax Reference Number: |   |  |  |  |  |  |  |  |  |  |  |  |  |  |
| iii. PAYE Reference Number: | 7 |  |  |  |  |  |  |  |  |  |  |  |  |  |  | iv. SDL Reference Number:        | L |  |  |  |  |  |  |  |  |  |  |  |  |  |
| v. UIF Reference Number:    | U |  |  |  |  |  |  |  |  |  |  |  |  |  |  |                                  |   |  |  |  |  |  |  |  |  |  |  |  |  |  |

**9. NATURE OF BUSINESS**

|   |  |                   |  |                    |  |                              |  |                 |  |
|---|--|-------------------|--|--------------------|--|------------------------------|--|-----------------|--|
| Company   |  | Close Corporation |  | Trust              |  | Sole Proprietor / Individual |  | Partnership     |  |
| Co-op   |  | Public Authority  |  | Foreign Individual |  | Foreign / External Company   |  | Sole Proprietor |  |
| Company / Close Corporation / Trust* Registration Number: |  |                   |  |                    |  |                              |  |                 |  |

**10. PARTICULARS OF SOLE PROPRIETOR / INDIVIDUAL / DIRECTORS AND / OR PARTNERS**

|                   |  |  |  |  |               |  |  |  |  |  |  |  |  |  |  |   |  |  |  |
|-------------------|--|--|--|--|---------------|--|--|--|--|--|--|--|--|--|--|---|--|--|--|
| i. Initials:      |  |  |  |  | First Name/s: |  |  |  |  |  |  |  |  |  |  | Passport Country<br>(e.g. South Africa = ZAF) |  |  |  |
| Surname:          |  |  |  |  |               |  |  |  |  |  |  |  |  |  |  |   |  |  |  |
| Capacity:         |  |  |  |  |               |  |  |  |  |  |  |  |  |  |  |   |  |  |  |
| ID / Passport No: |  |  |  |  |               |  |  |  |  |  |  |  |  |  |  |   |  |  |  |
| ii. Initials:     |  |  |  |  | First Name/s: |  |  |  |  |  |  |  |  |  |  | Passport Country<br>(e.g. South Africa = ZAF) |  |  |  |
| Surname:          |  |  |  |  |               |  |  |  |  |  |  |  |  |  |  |   |  |  |  |
| Capacity:         |  |  |  |  |               |  |  |  |  |  |  |  |  |  |  |   |  |  |  |
| ID / Passport No: |  |  |  |  |               |  |  |  |  |  |  |  |  |  |  |   |  |  |  |
| iii. Initials:    |  |  |  |  | First Name/s: |  |  |  |  |  |  |  |  |  |  | Passport Country<br>(e.g. South Africa = ZAF) |  |  |  |
| Surname:          |  |  |  |  |               |  |  |  |  |  |  |  |  |  |  |   |  |  |  |
| Capacity:         |  |  |  |  |               |  |  |  |  |  |  |  |  |  |  |   |  |  |  |
| ID / Passport No: |  |  |  |  |               |  |  |  |  |  |  |  |  |  |  |   |  |  |  |

**11. PUBLIC OFFICER / REPRESENTATIVE**

|                             |                          |                  |                              |              |                          |   |                          |                        |  |  |  |  |                        |        |  |  |  |  |
|-----------------------------|--------------------------|------------------|------------------------------|--------------|--------------------------|---|--------------------------|------------------------|--|--|--|--|------------------------|--------|--|--|--|--|
| Surname:                    |                          |                  |                              |              |                          |   |                          |                        |  |  |  |  |                        |        |  |  |  |  |
| First Name:                 |                          |                  |                              |              |                          |   |                          |                        |  |  |  |  |                        |        |  |  |  |  |
| Telephone (including code): | Code: (____)             | Tel. (____)      | Fax number (including code): | Code: (____) | Fax. (____)              |   |                          |                        |  |  |  |  |                        |        |  |  |  |  |
| E-mail address:             |                          |                  |                              |              |                          |   |                          |                        |  |  |  |  | Cellular Phone Number: | (____) |  |  |  |  |
| Public Officer:             | <input type="checkbox"/> | Curator/Trustee: | <input type="checkbox"/>     | Partner:     | <input type="checkbox"/> | Accounting officer / Treasurer / Financial Officer: | <input type="checkbox"/> | Other, please specify: |  |  |  |  |                        |        |  |  |  |  |

**12. INFORMATION REGARDING CONTRAVENTIONS AND OTHER MATTERS**

|  |      |  |     |  |
|--|------|--|-----|--|
| Please indicate whether during the preceding five years, any person contemplated in the rules for section 59A or 60:-  |      |  |     |  |
| (a) Has contravened or failed to comply with the provisions of the Act.  | Yes: |  | No: |  |
| (b) Has failed to comply with any condition, obligation or other requirement imposed by the Commissioner.  | Yes: |  | No: |  |
| (c) Has been convicted of any offence under the Act.   | Yes: |  | No: |  |
| (d) Has been convicted of any offence involving dishonesty.  | Yes: |  | No: |  |
| (e) Has made any false or misleading statement in any material respect or omitted to state any material fact which was required to be stated in any application for registration or for any other purpose under the Act.   | Yes: |  | No: |  |
| (f) Has ever been insolvent or in liquidation.   | Yes: |  | No: |  |
| Note:<br>• If the answer is "yes" to any of the above questions, full details must be furnished on a separate page and attached to the application.<br>• Any applicant may, where it is contended in respect of paragraphs (a) and (b) that the contravention or failure was inadvertent, without fraudulent intent or gross negligence, a submission to this effect should be furnished on a separate page and attached to the application. |      |  |     |  |

**13. DOCUMENTS IN SUPPORT OF APPLICATION**

The following information / documents not older than 3 months must be submitted with this application form.

**Natural person or juristic person located in the RSA**

- One of the following documents to prove bank details i.e. the account holder's name, bank account number and bank branch code:
  - An original bank statement or a legible certified copy of an original bank statement;
  - An original letter from the bank; or
  - An original auto bank statement.
- Original or certified copies of the following documents (whichever is relevant):
  - Registration certificate of business (as issued by the Companies and Intellectual Property Commission or Master of the Supreme Court in the case of a Trust);
  - Resolution/consent or other authority to apply, as applicable;
  - Municipal account to confirm the address details;
  - Detailed site plan in the case of a warehouse or a rebate store;
  - Agency Contract between agent and foreign principal;
  - DA 185.D to prove nomination by a foreign principal in the case of an application for a registered agent;
  - VAT, IT, PAYE, SDL, UIF letters from SARS to confirm revenue registration details;
  - A fixed telephone line operator's and/or cell phone account to confirm contact details;
  - In the case of Annexures DA 185.4B9 and DA 185.4B10, a letter to the applicant signed by the SEZ Operator on his or her own letter-headed paper approving the allocation of land in the CCA;
  - Identity/passport documents of –
    - Individual
    - Partnership, Close Corporation and Trust (All Members / Partners / Trustees)
    - Company (All Directors, including Managing Director and Financial Director)
    - Court order in the case of an emancipated minor
- Any other information as the Commissioner for SARS may require.

**Natural person or juristic person not located in the RSA**

- Original or certified copies of the following documents (whichever is relevant):
  - Agency Contract between applicant and agent (with an established place of business in the RSA) other than clearing agent;
  - VAT letters from SARS to confirm revenue registration details (if applicable);
  - Proof of company registration from the relevant competent authority in the foreign country;
  - Identity document or passport; and
  - Court order in the case of an emancipated minor
- Any other information as the Commissioner for SARS may require.

**14. DECLARATION:**

I hereby-

- (a) declare that the particulars in the application and all enclosures are true and correct; and
- (b) undertake to-
- (i) inform the SARS immediately of any changes in the particulars furnished in the application;
  - (ii) comply with the customs and excise laws and procedures.

\_\_\_\_\_  
(Initials and Surname)

\_\_\_\_\_  
(Status / Capacity, e.g. Director)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date & Place)

**15. FOR OFFICIAL USE ONLY**

I, \_\_\_\_\_ Team Member, at \_\_\_\_\_ Office hereby certify / confirm  
*Full name and surname* *Branch Office name*

that the applicant / representative\*:

- Visited this office in person;
- Is in fact the person reflected on his/her identification document/passport\*; and
- Is the person as is reflected on the letter of authority (where applicable).

\_\_\_\_\_  
*Team Member: SID*

\_\_\_\_\_  
*Team Member: Signature*

\_\_\_\_\_  
*Date*

I, \_\_\_\_\_ Team Leader, at \_\_\_\_\_ Office hereby certify / confirm  
*Full name and surname* *Office name*

that the applicant / representative\*:

- Visited this office in person;
- Is in fact the person reflected on his/her identification document/passport\*; and
- Is the person as is reflected on the letter of authority (where applicable).

\_\_\_\_\_  
*Team Leader: SID*

\_\_\_\_\_  
*Team Leader: Signature*

\_\_\_\_\_  
*Date*



ANNEXURE DA 185.4A17

**REGISTRATION CLIENT TYPE 4A17 – TOBACCO LEAF DEALER****Notes:**

1. A separate application form must be submitted in respect of each tobacco leaf dealer.
2. Properly representative photographs that indicate the size, layout and other general identifying features of the facility for dealing with tobacco leaf products should accompany each application.

**Details of applicant:**

|  |                              |
|--|------------------------------|
| Full name/Company name:                        | Postal Address:              |
| Identity Number / Company Registration Number: | Income tax reference number: |
| Physical address:                              | Cellular phone number:       |
| Email address:                                 |                              |

**Details of tobacco leaf dealer:**

|   |   |
|---|---|
| Describe the nature of tobacco processing or transactions carried out:  | Volume of tobacco processed or transacted per year in tons:               |
|   | Size of facility for dealing with tobacco leaf products in square metres: |
|   | Number of employees:  |
| If you have failed to comply with the Customs and Excise Act, 1964 or any law relating to the illicit manufacture, conveyance, supply or possession of excisable tobacco products during the past two years, state the nature of the offence and penalty imposed: |   |

**Declaration:**

I hereby -

- (a) **declare** that the particulars in the application and all enclosures are true and correct; and
- (b) **undertake** to -
- (i) inform the South African Revenue Service immediately of any changes in the particulars furnished in the application;
  - (ii) comply with the customs and excise laws and procedures.



|  |             |                                    |  |
|--|-------------|------------------------------------|--|
| (Initials and Surname)                 |             | (Status / Capacity, e.g. Director) |  |
| .....                                  |             | .....                              |  |
| (Signature)                            |             | (Date & Place)                     |  |
| <b>FOR OFFICIAL USE ONLY:</b>          |             |                                    |  |
| Approved:                              | Licence No. | Office Stamp                       |  |
| <div>_____</div> <div>Controller</div> |             |                                    |  |
| <div>_____</div> <div>Date</div>       |             |                                    |  |