

RESOLUTION: 2 OF 2017

**AGREEMENT ON THRESHOLDS AND PROCEDURES FOR THE GRANTING OF
ORGANISATIONAL RIGHTS WITHIN THE PUBLIC SERVICE**

1. OBJECTIVE

1.1. The objective of this agreement is to:

- 1.1.1. establish an agreed threshold of representativeness that registered trade unions must meet, as contemplated in section 18 of the LRA, to exercise organisational rights in the public service; and
- 1.1.2. establish a uniform and fair process to verify the membership of registered trade unions seeking organisational rights and the granting of organisational rights to trade unions who meet the agreed threshold of representativeness as contemplated in this agreement.

2. SCOPE

2.1 This agreement binds the employer and the employees of the employer who-

- 2.1.1. are employed by the State, and
- 2.1.2. fall within the registered scope of the Council.

2.2 This agreement shall not prevent the conclusion of collective agreements in the sector councils that regulate how organisational rights, as contemplated in sections 12, 13, 14 and 15 of the LRA, are to be exercised by trade unions who are granted organisational rights in the relevant workplace within the public service, as contemplated in section 20 of the LRA.

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For the avoidance of doubt, this agreement is not intended to regulate how organisational rights are to be exercised by trade unions and the Council recommends that the sector councils conclude organisational rights agreements to regulate such matters in each of its sectors, respectively.

3. NOTING

- 3.1 Council acknowledges the right to freedom of association;
- 3.2 Council discourages trade union proliferation at the workplace;
- 3.3 Council encourages practices of voluntarism, majoritarianism and self-determination;
- 3.4 Council promotes and seeks to achieve orderly centralised collective bargaining in the public service, and the effective resolution of disputes; and
- 3.5 Council strives to promote labour peace and stability by setting uniform rules, norms and standards for the granting of organisational rights, across the public service, so as to –

3.5.1 facilitate an application by a registered trade union seeking organisational rights;

3.5.2 facilitate and co-ordinate the granting of organisational rights to registered and/or admitted trade unions who meet the agreed threshold of representativeness as contemplated in this agreement;

3.5.3 ensure uniformity in the granting of organisational rights across the public service and within the sector councils.

4. WORKPLACE

- 4.1. For the purposes of this agreement, a workplace shall be as defined in paragraph (a)(ii) of the definition of a workplace in section 213 of the LRA.

5. THRESHOLD OF REPRESENTATIVENESS

- 5.1. The Council, in terms of its Constitution, establishes a threshold that registered trade unions in the public service must meet to be admitted as parties to the Council ("the Admission Threshold"). The Admission Threshold may be varied by the Council in its sole discretion and in accordance with its Constitution from time to time.
- 5.2. Trade unions who are admitted as parties to the Council as at the date on which this agreement becomes effective, are granted the organisational rights in sections 12,

13, 14 and 15 of the LRA in the relevant workplace. The rights of such admitted trade unions shall not be affected by the coming into effect of this agreement and such trade unions shall continue to exercise all of the organisational rights which they enjoyed prior to the coming into effect of this agreement.

5.3. The threshold of representativeness as contemplated in section 18 of the LRA for trade unions who are not admitted as parties to the Council as at the date on which this agreement becomes effective, but who seek to be granted organisational rights in the relevant workplace, shall be 75% of the Admission Threshold as determined in the Constitution of the Council from time to time. Trade unions who meet this threshold of representativeness shall be granted the organisational rights in sections 12, 13 and 15 of the LRA. In respect of trade unions who seek to be admitted as parties to the Council after the date on which this agreement becomes effective, the following shall apply:

5.3.1. A trade union who is admitted as a party to the Council and meets the Admission Threshold shall be granted the organisational rights in sections 12, 13, 14 and 15 of the LRA in the relevant workplace.

5.3.2. Trade unions who are admitted as parties to the Council as a result of them acting jointly but who do not, in their own right as a single trade union, meet the Admission Threshold of the Council, shall be granted the organisational rights in sections 12, 13 and 15 of the LRA in the relevant workplace.

5.4. Trade unions who are not admitted as parties to the Council but who jointly meet 75% of the Admission Threshold, shall be granted the organisational rights in sections 12, 13 and 15 of the LRA in the relevant workplace.

6. PROCEDURE TO OBTAIN ORGANISATIONAL RIGHTS

6.1. Where a registered trade union seeks to be granted organisational rights, it must serve on the employer a notice requesting to exercise one or more of the organisational rights conferred by the LRA in a workplace within the public service. The notice must comply with the provisions of section 21(2) of the LRA.

6.2. The parties to this agreement agree that in order to achieve consistency in the granting of organisational rights, the Council shall be required to consider the notice and make a recommendation to the employer about whether the trade union meets the minimum requirements of this agreement, read with the LRA, for the granting of

7. DEFINITIONS

In this agreement, unless the context otherwise indicates –

'day' means a working day.

'registered trade union' means a union in possession of a lawful registration certificate duly issued in terms of the LRA.

'admitted trade union' means a trade union admitted to the Council as a party complying with the provisions for admission as set out in the Constitution of the Council.

'the Council' means the Public Service Coordinating Bargaining Council (PSCBC).

'the LRA' means the Labour Relations Act, 66 of 1995, as amended from time to time.

'sector council' means the Education Labour Relations Council (ELRC), General Public Service Sectoral Bargaining Council (GPSSBC), Public Health and Social Development Sectoral Bargaining Council (PHSDSBC) and Safety and Security Sectoral Bargaining Council (SSSBC).




For the avoidance of doubt, any term and / or concept not defined in this agreement, or where the context does not otherwise provide sufficient clarity, assumes the meaning defined in the LRA.

8. DISPUTE RESOLUTION

If there is a dispute about the interpretation or application of this agreement any party may refer the matter to the Council for resolution in terms of the dispute resolution procedure of the Council.

9. IMPLEMENTATION OF AGREEMENT

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


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9.2. The Council will with the implementation of this agreement do an assessment of the current organisational rights awarded and align those to this agreement. Where necessary, sector councils may be advised to align sector agreements with this agreement.





9.3. The Council will monitor the implementation of this agreement.


THUS DONE AND SIGNED AT CAPE TOWN ON THIS 27TH DAY OF JUNE 2017.

ON BEHALF OF THE EMPLOYER

	Name	Signature	Date
STATE AS EMPLOYER	VICTOR SAKALA		21/06/2017

ON BEHALF OF TRADE UNION PARTIES

Trade Union	Name	Signature	Date
DENOSA			
HOSPERSA/NUPSAW/NATU	Masale Selernatselo		22/06/2017
NAPTOSA	Sash. Mameel		2017/06/28
NEHAWU	Mike Shingirig		22/06/2017
POPCRU	RANKHELE MSINTO		22/06/2017

PSA			
SADTU	MALBWEWA MALULEKE		26/06/2017
SAPU			