



SSSBC

SAFETY AND SECURITY SECTORAL BARGAINING COUNCIL

AGREEMENT NO:	2/2008
DATE:	01 APRIL 2008

AGREEMENT: AMENDMENTS TO AGREEMENT 1/2005-ADOPTION OF DISPUTE RESOLUTION RULES

NOTING THAT the SSSBC is accredited by the Governing Body of the CCMA in terms of section 127 of the Labour Relations Act 66/1995 as amended to perform dispute resolution functions;

FURTHER NOTING THAT section 28(1) (d) of the Labour Relations Act (66/1995 as amended) provides for the Council to perform dispute resolution functions referred to in section 51 of the Act;

Parties to the Safety and Security Sectoral Bargaining Council hereby agree to the following:

1. To amend Agreement 1/2005 as attached hereto as **Annexure A.**
2. This agreement will come into effect on the 1st of April 2008.
3. This agreement is applicable to all employees appointed in terms of the South African Police Service Act, 1995 (Act no 68 of 1995), and the Public Service Act, 1994 (Act no 103 of 1994) and who fall within the registered scope of the SSSBC.
4. 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 Council.
5. This agreement binds the parties to the agreement and all employees who are not members of a registered trade union admitted to the Council, as well as all members of registered trade unions admitted to the Council, who are not parties to this agreement.

This agreement is signed on behalf of the South African Police Service as Employer and the relevant employee organizations, all signatories being duly authorized thereto at **CENTURION** on this **1ST** day of **APRIL 2008.**



SOUTH AFRICAN POLICE SERVICE



POLICE AND PRISONS CIVIL RIGHTS UNION



SOUTH AFRICAN POLICE UNION

Agreement 2/2008

These Rules must be read together with the SSSBC Constitution, including the Dispute Procedure.

ANNEXURE A

**DISPUTE RESOLUTION RULES OF THE SAFETY AND SECURITY SECTORAL
BARGAINING COUNCIL**

TABLE OF CONTENTS

PART ONE: SERVING AND FILING OF DOCUMENTS

1. How to contact the Council
2. Office Hours
3. Calculation of time period
4. Who must sign documents
5. How to serve documents on other parties
6. How to prove that a document was served in terms of the rules
7. How to file documents with the Council

PART TWO: CONCILIATION OF DISPUTES

8. How to refer a dispute to the Council
9. Notice of a conciliation

PART THREE: CON-ARB OR ARBITRATIONS

10. How to request con-arb or arbitration

PART FOUR: RULES THAT APPLY TO CONCILIATIONS AND ARBITRATIONS

11. Objections to a representative appearing before the Council
12. Correction of a citation
13. Consolidation of the disputes
14. Disclosure of documents

PART FIVE: APPLICATIONS

15. How to bring an application
 - 15.1 Condonation
 - 15.2 Joinder / Substitution
 - 15.3 Variation and/or Rescission
 - 15.4 Settlement Agreement made an arbitration award in terms of Section 142A of the Act

PART SIX:

16. PRE-DISMISSAL ARBITRATION

PART SEVEN GENERAL

17. Recordings of proceedings
18. Subpoenas
19. Taxation of Bill of Costs
20. Definitions

Agreement 2/2008

These Rules must be read together with the SSSBC Constitution, including the Dispute Procedure.



PART ONE: SERVING AND FILING OF DOCUMENTS

1. How To Contact The Council

- (1) The addresses, telephone and fax numbers of the office of the Council are listed in Schedule One of these rules.
- (2) Documents may only be filed with the Council at the address or fax numbers listed in Schedule One of these rules.

2. Office Hours

- (1) Offices of the Council will be open every day from Monday to Friday, excluding public holidays, between the hours of 07h30 and 16h00 or as determined by the Council.
- (2) Documents may only be filed with the Council during the hours referred to in sub-rule 1.
- (3) Notwithstanding sub-rule 2, documents may be faxed at any time to the Council. If faxed after hours, it will be deemed to have been received on the next working day.
- (4) All communication should be addressed to the Secretary of Council.
- (5) Offices of the Council will be closed from 24 December up to and including 02 January.

3. Calculation of Time Periods.

- (1) For the purpose of calculating any period of time in terms of these rules-
 - (a) day means a calendar day; and
 - (b) the first day is excluded and the last day is included, subject to rule 3(2).
- (2) If any day specified in these rules falls on a Saturday, Sunday, public holiday or on a day during 16 December to 16 January it must be excluded.

4. Who Must Sign Documents?

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



5. How To Serve Documents On Other Parties

- (1) A party must serve a document on the other parties –
 - (a) by handing a copy of the document to –
 - (i) a party subject to rule 5(2);
 - (ii) a representative which is on record to represent such a party;
 - (iii) a person who appears to be at least 16 years old and in charge of the party's place of residence, business or place of employment premises at the time.
 - (b) by leaving a copy of the document at –
 - (i) an address chosen by the party to receive service;
 - (ii) any premises in accordance with rule 5(3).
 - (c) by faxing a copy of the document to the party's fax number, or a number chosen by that person to receive service, subject to rule 5(2);
 - (d) by sending a copy of the document by registered post to the last-known address of the party or an address chosen by the party to receive service, subject to rule 5(2).
- (2) A document must be served–
 - (a) in the case of the employer, at the address listed in Schedule One.
 - (b) in the case of an employee or trade union, on the employee or on an official of the trade union as indicated on the referral form.
- (3) If no person identified in rule 5(2) is willing to accept service, service may be effected by affixing a copy of the document to –
 - (a) the main door of the premises concerned or;
 - (b) if this is not accessible, a post-box or other place to which the public has access.

6. How To Prove That a Document Was Served in Terms Of The Rules

- (1) A party must prove to the Secretary or a panellist that a document was served in terms of these rules, by providing the Secretary or a panellist:
 - (a) with a copy of proof of mailing the document by registered post to the other party;
 - (b) with a copy of the telefax communicating the document to the other party.
 - (c) if a document was served by hand –



- (i) with a copy of a receipt signed by, or on behalf of, the other party clearly indicating the name and designation of the recipient and the place, time and date of service; or
 - (ii) with an affidavit confirming service signed by the person who delivered a copy of the document to the other party or left it at any premises.
- (2) If proof of service in accordance with rule 6(1) is provided, it is presumed, until the contrary is proved, that the party on whom it was served has knowledge of the contents of the document.

7. How To File Documents With The Council

- (1) A party must file documents with the Council:
 - (a) by handing the document to the office of the Secretary at the address listed in Schedule One.
 - (b) by sending a copy of the document by registered post to the office of the Secretary at the address listed in Schedule One; or
 - (c) by faxing the document to the office of the Secretary at a number listed in Schedule One.
- (2) A document is filed with the Council once –
 - (a) the document is handed to the office of the Secretary;
 - (b) a document sent by registered post is received by the office of the Secretary; or
 - (c) the transmission of the whole of a fax is completed.
- (3) Any document or notice sent by registered post by a party or the Council is presumed, until the contrary is proved, to have been received by the person to whom it was sent seven days after it was posted.
- (4) A party must only file the original of a document filed by fax, if requested to do so by the Secretary or a Panellist. A party must comply with a request to file an original document within seven days of the request.

PART TWO: CONCILIATION OF DISPUTES

8. How To Refer a Dispute To The Council

- (1) A referral of a dispute for conciliation must be made on the referral forms of the Council.
- (2) The referring party must –
 - (a) sign the referral document in accordance with rule 4;
 - (b) attach to the referral document written proof, in accordance with rule 6, that the referral document was served on the other parties to the dispute;



(c) if the referral document is filed out of time, attach an application for condonation in accordance with rule 15.

(3) The Secretary must:

(a) only accept a referral document that complies with rule 8(2) and

(b) if not properly referred, inform the referring party of the defect in the referral form.

9. Notice of Conciliation.

The Secretary must give the parties at least 10 working days notice, in writing, of a conciliation hearing, unless the parties agree to a shorter period.

PART THREE: CON-ARB

10. How To Request Con-Arb or Arbitration

(1) A party may request the Council to arbitrate a dispute by filing the referral for arbitration form with the Secretary.

(2) The referring party must -

(a) sign the referral document in accordance with rule 4;

(b) attach to the referral document written proof that the referral document was served on the other parties to the dispute in accordance with rule 6; and

(c) if the referral document is served out of time, the referring party must attach an application for condonation in accordance with rule 15.

(3) The Secretary must:

(a) only accept a referral document that complies with rule 10(2); and

(b) if not properly referred, inform the referring party of the defect in the referral form.

PART FOUR: RULES THAT APPLY TO CONCILIATIONS AND ARBITRATIONS

11. Objections to a Representative Appearing Before The Council.

(1) A party to the dispute that challenges the right of appearance of a representative must furnish reasons showing why the representative does not have the right of appearance.

(2) The panellist may call upon the representative to furnish reasons why the representative should be permitted to appear.



- (3) A representative must provide any documentary proof requested by the panellist relating to his/her right of appearance.

12. Correction Of A Citation.

- (a) If a party to any proceedings has been incorrectly or defectively cited, the Secretary or panellist may, on written request and on notice to the parties concerned, correct the error or defect.
- (b) Changes in relation to the Referral Form should be agreed to at the pre-arbitration meeting.

13. Consolidation Of The Disputes

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

14. Disclosure Of Documents

Either party may request a panellist to make an order as to the disclosure of relevant documents.

PART FIVE : APPLICATIONS (Condonation, Joinder/Substitution, Variation and/or Rescission, Section 142A of the Act and other preliminary or interlocutory applications)

15 How To Bring An Application

- (a) An application must be brought on notice to all persons who have an interest in the application.
- (b) The party bringing the application must sign the notice of application in accordance with rule 4 and must state -
- (i) the title of the matter;
 - (ii) the case number assigned to the matter by the Secretary;
 - (iii) the relief sought;
 - (iv) the address at which the party delivering the document will accept delivery of all documents and proceedings;
 - (v) that any party that intends to oppose the matter must deliver a notice of opposition and answering affidavit within fourteen days after the application has been delivered to it;
 - (vi) that the application may be heard in the absence of a party that does not comply with sub-paragraph (v);
 - (vii) that a schedule is included listing the documents that are material and relevant to the application.

- (c) The application must be supported by an affidavit. The affidavit must clearly and concisely set out –
- (i) the names, description and addresses of the parties;
 - (ii) 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;
 - (iii) a statement of legal issues that arise from the material facts, in sufficient detail to enable any party to reply to the document;
 - (iv) if the application is filed outside the relevant time period, grounds for condonation in accordance with rule 15.1; and
 - (v) 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.
- (d) Any party opposing the application may deliver a notice of opposition and an answering affidavit within 10 working days from the day on which the application was served on that party.
- (e) A notice of opposition and an answering affidavit must contain, with the changes required by the context, the information required by sub rules (b) and (c) respectively.
- (f) The party initiating the proceedings may deliver a replying affidavit within 5 working days from the day on which any notice of opposition and answering affidavit are served on it.
- (g) The replying affidavit must address only issues raised in the answering affidavit and may not introduce new issues of fact or law.

In an urgent application, the Secretary or a panellist -

- (i) may dispense with the requirements of this rule; and
 - (ii) may only grant an order against a party that has had notice of the application.
- (h) The Secretary must allocate a date for the hearing of the application once a replying affidavit is delivered, or once the time limit for delivering a replying affidavit has lapsed, whichever occurs first.
- (i) The Secretary must notify the parties of the date, time and place of the hearing of the application.
- (j) The panellist must decide on an application within 5 working days of receiving the application and the answering affidavits, or within 7 working days of the hearing of oral evidence.
- (k) Despite this rule, the panellist may determine an application in any manner he / she deems fit.



15.1. Application For Condonation

- (a) An application for condonation must be in writing, supported by an affidavit and served on all other parties to the dispute. The application for condonation must set out the grounds on which condonation is sought and should deal with:
 - (i) The degree of lateness;
 - (ii) The reasons for the lateness;
 - (iii) The referring parties' prospects of succeeding with the referral and obtaining the relief sought against the other party; and
 - (iv) The balance of convenience, including any prejudice to the other party.
- (b) The respondent party may oppose the application for condonation by serving an answering affidavit on the referring party and the Council. The answering affidavit must be served within 10 working days of the respondent party having been served with the application for condonation.
- (c) The applicant may reply within 5 working days.
- (d) The Secretary must appoint a panellist to consider the condonation application. The panellist may do so on the basis of the affidavits filed with the Secretary or may convene a hearing with oral evidence. The panellist must decide whether or not to grant condonation within 5 working days of receiving the application and the answering affidavits, or within 5 working days of the hearing of oral evidence, as the case may be.

15.2. Application for Joinder / Substitution

- (a) The Secretary of Council on agreement by all parties may join any number of persons as parties in proceedings if the relief depends on substantially the same question of law or fact.
- (b) A panellist may make an order joining any person as a party in the proceedings if the party to be joined has a substantial interest in the subject matter of the proceedings.
- (c) A panellist may make an order-
 - (i) of his-own accord;
 - (ii) on application by a party; or
 - (iii) if a person entitled to join the proceedings applies at any time during the proceedings to intervene as a party.
- (d) When making an order a panellist may –
 - (i) give appropriate directions as to the further procedure in the proceedings; and
 - (ii) make an order of costs in accordance with these rules.

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- (e) If in any proceedings it becomes necessary to substitute a person for an existing party, any party to the proceedings may apply to the Secretary for an order substituting that party for an existing party, and a panellist may make such order or give appropriate directions as to the further procedure in the proceedings.
- (f) An application to join any person as a party to proceedings or to be substituted for an existing party must be accompanied by copies of all documents previously delivered, unless the person concerned or that person's representative is already in possession of the documents.
- (g) Subject to any order made a joinder or substitution in terms of this rule does not affect any steps already taken in the proceedings.
- (h) In a promotion dispute the applicant must file an application to join the successful candidate/s as respondent/s in the matter and provide:-
 - (i) full contact details of the successful candidate/s.
 - (ii) proof that the successful candidate/s has been served with the Referral Form and the application for joinder

15.3. Application For Variation And/Or Rescission

- (a) An application for rescission and/or variation must be made in writing supported by an affidavit and served on all other parties who have an interest in the application.
- (b) Any party opposing the application may serve a notice of opposition and an answering affidavit on the other parties to the dispute within 10 working days from the day on which the application is served on the party opposing the application.
- (c) The party initiating the proceedings may serve a replying affidavit within 5 working days from the day on which any notice of opposition and answering affidavit is served. The replying affidavit must address only those issues raised in the answering affidavit and may not introduce new issues of fact or law.
- (d) The Secretary must request an arbitrator to consider the application once a replying affidavit is served, or once the time limit for serving a replying affidavit has lapsed.
- (e) The arbitrator may request the Secretary to convene a hearing so as to present oral evidence. The Secretary must notify the parties of the date, time and place of the hearing of the application

15.4. Application On How To Have A Settlement Agreement Made An Arbitration Award in Terms Of Section 142A of the Act.

- (a) The Panellist may, by agreement between the parties or on application by a party, make any settlement agreement in respect of any dispute that has been referred to the Council, an arbitration award.

- (b) For the purposes of rule 15.4(a), a settlement agreement signed by both parties is a written agreement in settlement of a dispute that a party has the right to refer to arbitration or to the Labour Court, excluding a dispute that a party is entitled to refer to arbitration in terms of either section 74(4) or 75(7) of the Act.

PART SIX

16. PRE-DISMISSAL ARBITRATION

- (1) The employer or the employee may, with the consent of the other party, request the Council to conduct a pre-dismissal arbitration in terms of clause 3.4.2 of the SSSBC Dispute Procedure, by completing the prescribed form to the Council.
- (2) The employer and employee must sign the prescribed form for consenting to the process, unless the employee has consented in terms of a contract of employment, in which case a copy of the contract must be attached to the prescribed form.
- (3) Upon completion of the prescribed form, the party that requested the pre-dismissal arbitration must file the prescribed form together with the fee prescribed by Council. Payment of the fee may only be made by-
- (a) bank deposit; or
 - (b) electronic transfer into the bank account of the Council
- (4) Within 15 working days of receiving a request in terms of sub-rule (1) and payment of the prescribed fee, the Secretary must notify the parties to the pre-dismissal hearing of when and where the hearing will be held.
- (5) The Secretary will appoint a panellist to chair the pre-dismissal hearing.
- (6) Unless the parties agree otherwise, the Secretary must give the parties at least 10 working days notice of the commencement of the hearing.
- (7) The Council is only required to refund a fee paid, with the exclusion of the administration fee in terms of rule 16(3), if the Council is notified of the resolution prior to the issuing of the notice in terms of rule 16(4).

PART SEVEN

GENERAL

17. Record of proceedings

- (1) The Council must keep a record of –
- (a) any evidence given in an arbitration hearing;
 - (b) any sworn testimony given in any proceedings before the Council;
and
 - (c) any arbitration award or ruling made by a panellist.



- (2) The record may be kept by legible hand-written notes or by means of an electronic recording.
- (3) A party may request from the Secretary in writing, a copy of the transcript of a record or a portion of a record kept in terms of sub rule (2), on payment of the costs of the transcription.
- (4) In case of a part heard matter, a party who is requesting transcriptions must do so within 4 working days of receipt of the notice of set-down.
- (5) Upon receipt of the request, the Secretary will seek quotations from the transcribers and inform the requesting party of the cost of the transcription.
- (6) Upon receipt of the quotation from the Secretary, the party must make payment to either the SSSBC or the transcribers.
- (7) A party who requested the transcription will be liable for the cost of the courier of the document(s)
- (8) After the person who makes the transcript of the record has certified that it is correct, the record must be returned to the Secretary.
- (9) The transcript of a record certified as correct in terms of sub rule (8) is presumed to be correct, unless the Labour Court decides otherwise.

18. Subpoenas

1. Any party, who requires the panellist to subpoena a person in terms of section 142(1) of the Act, must file a request for subpoena with the Council together with a written motivation setting out why the evidence of the person to be subpoenaed is necessary.
2. A party requesting the Council to waive the requirement for the party to pay witness fees in terms of section 142(7) (c) of the Act must set out the reasons for the request in writing at the time of requesting the Council to issue a subpoena in respect of that witness.
3. A request in terms of rule 21(1) must be filed with the Secretary at least 10 working days before the arbitration hearing, or as directed by the panellist hearing the arbitration.
4. The Secretary or a panellist may refuse to issue a subpoena if—
 - (a) the party does not establish why the evidence of the person is necessary;
 - (b) the party subpoenaed does not have a reasonable period in which to comply with the subpoena;
 - (c) the Secretary or a panellist is not satisfied that the party has made arrangements to pay the witness fees and the reasonable travel costs of the person subpoenaed.



5. A subpoena must be served on the witness by the party requesting the subpoena –
- (a) at least 7 working days before the scheduled date of the arbitration;
 - (b) if the panellist wants to subpoena a witness, the Council must serve the witness with a subpoena; and
 - (c) if so directed by the panellist, accompanied by payment of the prescribed witness fees in accordance with the tariff of allowances published by notice in the Government Gazette in terms of section 142(7) of the Act and the witnesses' reasonable travel costs.

19. Taxation of Bill of Costs

- (1) A party in whose favour the order was made can apply for taxation of the bill of costs by submitting a written application to the Secretary of Council.
- (2) The notice of application must contain the bill of costs and the award and must be served on the other party.
- (3) The Secretary will determine the date, time and place for the taxation hearing.
- (4) The Taxing officer must tax any bill of costs for services rendered in connection with proceedings in the Council, in terms of Annexure A attached hereto.
- (5) At the taxation of the bill of costs, the taxing officer may call for any book, document, paper or account that in the taxing officer's opinion is necessary to properly determine any matter arising from the taxation.
- (6) Any person requesting taxation must satisfy the taxing officer:
 - (a) of that party's entitlement to be present at the taxation; and
 - (b) that the party liable to pay the bill has received notice of the date, time and place for taxation.
- (7) Despite rule 19(3), notice need not be given to a party:
 - (a) who consented in writing to the taxation taking place in that party's absence.



20. Definitions

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

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

"Association" means any unincorporated body of persons;

"Con-Arb" means joint conciliation and arbitration hearing.

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

"Employer" means the State as employer falling within the registered scope of the Council,

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

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

"Panellist" means a person appointed in terms of this rules or the Dispute Resolution Procedure to handle disputes as conciliators or arbitrators;

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

"Public holiday" means a public holiday referred to in section 1 of the Public Holidays Act, 1994 (Act No. 36 of 1994);

"Council" means the Safety and Security Sectoral Bargaining Council.

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

"Secretary" means the Secretary of the Council

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

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

SCHEDULE ONE

ADDRESS AND CONTACT NUMBERS OF THE COUNCIL

Postal Address SSSBC
 PO Box 11269,
 Centurion, 0046
 Attention: The Secretary of Council

Physical Address: Public Service Bargaining Centre,
 260 Basden Road,
 Lyttelton,
 0140

Tel Number: (012) 644 8116 / 8136 /8128

Fax Number: (012) 664 8992

ADDRESS AND CONTACT NUMBERS OF SOUTH AFRICAN POLICE SERVICE

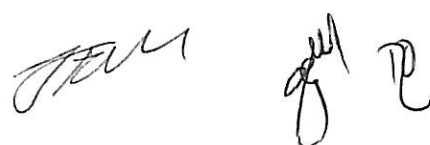
Postal Address: South African Police Service
 Private Bag X 94
 PRETORIA
 0001

 Attention: Dir PFP De Kock

Physical Address: Room 232
 2nd Floor
 Presidia Building (c/o Pretorius and Paul Kruger Streets)
 PRETORIA

Fax Number: (012) 393 7159

Tel Number: (012) 393 7253 / 393 7264 / 393 7162

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ANNEXURE A: TAXATION OF BILL OF COSTS

	DESCRIPTIONS OF FEES AND DISBURSEMENTS	FEES & DISBURSEMENTS APPLICABLE TO LEGAL PRACTITIONERS AND TO TRADE UNION OFFICIALS, OFFICIALS OF EMPLOYERS' ORGANISATIONS AND EMPLOYEE ACTING ON BEHALF OF THEIR EMPLOYERS AND TO THE APPLICANT
1.	Taking instructions to refer or to defend a dispute.	R250-00
2.	Completion of "referral document".	R100-00
3.	Service and filing of documents	Any disbursement reasonably incurred to give effect to the provisions of clauses 2.2.1(b), 2.3.1(c), 3.3.1(c), 3.4.1(c), 3.5.1(c) or any similar clause requiring a document to be forwarded to the Council or other party.
4.	Making necessary copies	R2-00 per page
5.	Taking instructions to make or to oppose any other application.	R150-00
6.	Drafting and drawing documents in support of or in opposition of any application, heads of argument and/or other notices.	R20-00 per folio
7.	Attending on signature of any affidavit drafted in support or in opposition of an application.	R100-00
8.	Preparation for arbitration hearing and consulting with witnesses.	R300-00 per hour or part thereof.

	DESCRIPTIONS OF FEES AND DISBURSEMENTS	FEES & DISBURSEMENTS APPLICABLE TO LEGAL PRACTITIONERS AND TO TRADE UNION OFFICIALS, OFFICIALS OF EMPLOYERS' ORGANISATIONS AND EMPLOYEE ACTING ON BEHALF OF THEIR EMPLOYERS AND TO THE APPLICANT
9.	Attending conciliation arbitration, pre-arb meeting including waiting time, time spent on attending inspection in loco, and travelling time to and from the venue.	R600-00 per hour or part thereof.
10.	Sorting, arranging and pagination of documents and compiling index for purposes of an arbitration hearing.	R100-00
11.	Any necessary telephone call for purposes of the orderly process of determining the dispute between the parties, including the disbursements incurred in making or receiving the telephone call.	R20-00
12.	Any necessary letter written or received for purpose of the orderly process of determining the dispute between the parties, including any disbursement incurred in sending or receiving the letter.	R20-00
13.	Travelling costs for the purposes of attending conciliation, con-arb, pre-arbitration conference, arbitration hearing and taxation.	R2,50 per kilometre
14.	Drawing bill of costs	5% of bill of costs
15.	Attending to taxation	5% of bill of costs

NOTE

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