

# ACCORD ON COLLECTIVE BARGAINING AND INDUSTRIAL ACTION

## Preamble

Recognising the constitutional rights-

- the freedom and security of individuals
- the freedom to assemble peacefully and unarmed,
- the freedom of association
- to strike and
- to engage in collective bargaining,

Recognising the constitutional obligations on the State to respect, protect, promote and fulfill those rights

Recognising the principles stated in the Ekurhuleni Declaration on 4 November 2014, the parties to this Accord affirm-

- that the constitutional right to strike and the statutory right to lockout must be peaceful, free of intimidation and violence, including violence and intimidation that may be associated with police action
- strike action by workers and trade unions is a legitimate exercise of power to pursue demands
- prolonged strike action has the potential to cause serious harm not only to strikers and their employers but also to others inside and outside the workplace

The Parties and signatories to this Accord commit themselves and their members to this Accord.

## Parties to the Accord

### 1. NEDLAC constituencies

### 2. The trade union parties to the Accord are:

- 2.1. The trade union federations that are represented on the National Economic Development Labour Advisory Council (NEDLAC);
- 2.2. The trade unions and the members of such trade unions that are members of those federations;
- 2.3. The trade unions and their members that do not belong to any of those federations that have signed this Accord.

### 3. The employer parties to the Accord are:

- 3.1. The federations of employer associations that are represented on NEDLAC;
- 3.2. The employer associations of those federations;
- 3.3. The employer associations and members of those associations that are not members of those federations that have signed this Accord; and
- 3.4. Any employers that are not members of those associations, that have signed this Accord

## 4. Government

- 4.1. The Government in so far as it is directly or through its agencies and institutions required to implement this Accord.
- 4.2. The State, in its capacity as employer at national, provincial and local level, and as employer in State Owned Enterprises.

## 5. Agencies

- 5.1. Commissioner for Conciliation Mediation and Arbitration;
- 5.2. Bargaining Councils;
- 5.3. Sector Education and Training Authorities;
- 5.4. The National Skills Authority;
- 5.5. The Private Security Industry Regulatory Authority.

## 6. Other Private Sector Organisations and Institutions

- 6.1. The federations of private security companies;
- 6.2. Private security companies that have signed the Accord; and
- 6.3. Trade unions in the private security industry.

## All parties to this Accord commit:

7. In the case of violence, intimidation, and the threat of harm to person or property associated with industrial action, to build capacity; expedite processes and assign sufficient and senior staff to the resolution of issues.

## Employer and trade union undertakings

### 8. The employer and trade union parties to the Accord and their members undertake-

- 8.1. to abide by and implement the Code of Good Practice: Collective Bargaining, Industrial Action and Picketing;
- 8.2. to abide by the terms of collective agreements;
- 8.3. to mutually respect all parties and to uphold the principles of good faith bargaining and the law;
- 8.4. that during the course of negotiations, dispute resolution processes and strike or lockout action make public statements calling on all members that they must always act in compliance with this Code and in a law abiding and peaceful manner.
- 8.5. to secure that their negotiators undergo the training contemplated in the Code of Collective Bargaining and Industrial Action including refresher training at regular intervals;
- 8.6. to secure that any bargaining council to which they belong signs the Accord;
- 8.7. encourage parties to only contract with security companies that abide by the Accord and Code of Good Practice on Collective Bargaining, Industrial Action and Picketing;

- 8.8. to only make lawful requests of employees of private security companies;

- 8.9. to refrain from acting in a manner that makes any conflict worse; and,

- 8.10. to monitor and evaluate, together with government and under the auspices of Nedlac, whether the commitments made here are effective in promoting the principles contained in the Preamble.

## Employer and trade union declaration against violence, loss of life or harm to persons and property

### 9. The trade union and employer parties to the Accord and their members hereby-

- 9.1. declare that the resort to violence, intimidation, loss of life or threat of harm to persons and property under all circumstances and more particularly during strikes, lockouts, pickets and protest action is intolerable;
- 9.2. undertake to take all necessary measures to prevent violence, intimidation and damage to property and, if it does occur, to take all the steps necessary to discourage such conduct and to comply with a court order interdicting the violence, intimidation or damage to property;
- 9.3. declare that they are committed to adhering to the provisions of the Code of Good Practice Collective Bargaining and Industrial Action and the related declaration on good faith bargaining.

## Role of Public Order Policing in strikes, lockouts, pickets and protest action

### 10. SAPS, in relation to Public Order Policing undertakes-

- 10.1. to comply with the Code of Collective Bargaining and Industrial Action and the Code of Good Practice on Picketing in so far as those Codes apply to it and to take the necessary steps to ensure that its members do so;
- 10.2. to ensure sufficient capacity and that its members assigned to monitor strikes, lockouts, pickets and protest action are trained in public order policing and those Codes;
- 10.3. that its presence at strikes, lockouts, pickets and protest action is minimal and unobtrusive unless there is good cause for it to be otherwise;
- 10.4. that its members will refrain from acting in a manner that escalates the conflict and will only use minimum force and make use of non-lethal weapons to prevent or respond to breaches of the Codes;
- 10.5. to ensure monitoring and engagement with employees and employers participating in a strike, lockout, picket or protest action.
- 10.6. to investigate and submit for prosecution any perpetrators of violence, intimidation or damage to property on an expedited basis.

## Role of private security companies

11. The private security companies that are bound by the Accord undertake to-
  - 11.1. to comply with the Code of Collective Bargaining, Industrial Action and Picketing in so far as those Codes apply to them and to take the necessary steps to ensure that their employees do so;
  - 11.2. to ensure that its security officers tasked with protecting property during industrial action are adequately trained in crowd management and the Code of Collective Bargaining and Industrial Action in order to ensure that they act appropriately if conflict escalates during the course of industrial action;
  - 11.3. that the presence of its security officers at strikes, lockouts, pickets and protest action does not escalate conflict and is minimal and unobtrusive unless there is good cause for it to be otherwise; and
  - 11.4. that its security officers are only armed with non-lethal weapons to prevent or respond to breaches of the Code.

## Role of the CCMA and Bargaining Councils

### 12. The CCMA and bargaining councils undertake to provide-

- 12.1. dispute resolution and prevention services contemplated in giving effect to the Code of Collective Bargaining and Industrial Action and the Code of Good Practice on Picketing;
- 12.2. training of negotiators in accordance with that Code based on the materials provided by the CCMA and adapted for the sector by that Council;
- 12.3. workplace capacity building programs and services to trade union and employer representatives as may be provided for in terms of its existing policies and procedures;
- 12.4. services to support the establishment of workplace participatory structures where parties have agreed to the establishment of such structures.

## Role of Department of Higher Education and Training (DHET) National Skills Fund (NSF) and Sector Education and Training Authorities (SETAs)

13. The DHET, NSF, SETAs undertake to facilitate and make funding available for the training of negotiators in their respective sectors. This training should be developed by the CCMA and appropriately adapted for a sector by that SETA.

