

COLLECTIVE AGREEMENTS



WHAT IS A COLLECTIVE AGREEMENT

A collective agreement is a written agreement concerning terms and conditions of employment, or any other matter of mutual interest, concluded by one or more registered trade unions on the one hand and, on the other hand—

- ◆ One or more employers;
- ◆ One or more registered employers' organisations; or
- ◆ One or more employers and one or more registered employers' organisations.

WHO IS BOUND BY THE COLLECTIVE AGREEMENT

The following are bound by the agreement—

- ◆ The parties to the agreement;
- ◆ The members of every other party to the agreement insofar as the provisions of the agreement are applicable;
- ◆ The members of a registered trade union that is party to the agreement; and
- ◆ The employers who are members of a registered employers' organisation that is party to the agreement.

Employees who are not members of the registered trade union that is party to the agreement are bound by the agreement if:

- ◆ The employees are identified in the agreement;
- ◆ The agreement expressly binds the employees; and

- ◆ The trade union represents the majority of the employees in the workplace.

NOTE — The fact that a union is unregistered does not mean that the union cannot conclude an agreement with the employer. However, such agreement will not be a collective agreement as defined in the LRA.

WHAT ISSUES ARE COVERED BY COLLECTIVE AGREEMENTS

Collective agreements –

- ◆ Regulate terms and conditions of employment, for example, overtime and leave;
- ◆ Wage agreements;
- ◆ The conduct of the employer in relation to its employees; or

NOTE — Where an employer and employee are bound by a collective agreement and where such an agreement contains terms and conditions of employment that differ from those in the contract of employment between them, the provisions of the collective agreement will be incorporated into the contract of employment between them. The provisions of the contract will be amended accordingly.

TIME PERIOD

Parties bound by a collective agreement will remain bound for the period that the agreement is in force. Where not stated, any party to the agreement may give reasonable notice of termination to the other parties, unless the agreement provides otherwise.

TERMINATION OF COLLECTIVE AGREEMENT

Any party to the agreement may terminate a collective agreement by giving a reasonable notice in writing to the other parties.

DISPUTES ABOUT COLLECTIVE AGREEMENTS

Collective agreements must contain procedures for the resolution of disputes about the interpretation or the application of the collective agreement and interpretation and application of a settlement agreement. The procedures require the parties to refer the dispute to the CCMA, private mediation or a bargaining council for conciliation and to arbitration if the dispute could not be settled through conciliation.

OTHER TYPES OF COLLECTIVE AGREEMENTS

Closed shop agreements and agency shop agreements.

RELEVANT LEGISLATION

Labour Relations Act, ss23–26 as amended.