

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 are party to the agreement; and
- the employers who are members of a registered employers' organisation that are party to the agreement.

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

- The employees are identified in the agreement;
- The agreement expressly binds the employees; and
- That trade union represents the majority of the employees employed by the employer 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 Labour Relations Act.

WHAT ISSUES ARE COVERED BY COLLECTIVE AGREEMENTS

Collective agreements regulate –

- terms and conditions of employment, for example, overtime and leave; and
- the conduct of the employers in relation to their employees or the conduct of the employees in relation to their employers.

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 that employer and employee, the relevant provisions of the collective agreement will vary the contract of employment between them.

OTHER TYPES OF COLLECTIVE AGREEMENTS

A closed shop agreement is a collective agreement concluded between a representative trade union and an employer or employers' organisation which requires all employees covered by the agreement to be members of that trade union. A representative trade union refers to a registered trade union or two or more registered trade unions acting jointly, whose members are a majority of the employees employed by the employer in the workplace, or by the members of an employers' organisation in a sector and area in respect of which the closed shop agreement applies.

An agency shop agreement is a collective agreement concluded between a representative trade union and an employer or employers' organisation which requires the employer to deduct an agreed agency fee from the wages of employees identified in the agreement who are not members of the trade union but are eligible to become its members.

TIME PERIOD

Parties bound by a collective agreement will remain bound for the period that the agreement is in operation.

TERMINATION OF COLLECTIVE AGREEMENT

Unless the collective agreement provides otherwise, any party to a collective agreement that is concluded for an indefinite period of time, may give reasonable written notice of termination to the other parties.

DISPUTES ABOUT COLLECTIVE AGREEMENTS

Collective agreements, other than a closed shop agreement, an agency shop agreement, or a settlement agreement contemplated in either section 142A or 158(1) (c) of the LRA, must contain a procedure to follow for the resolution of any disputes about the interpretation or the application of the collective agreement. The procedure requires the parties to first attempt to resolve the dispute through conciliation and, if the dispute remains unresolved, to resolve it through arbitration.

RELEVANT LEGISLATION

- Labour Relations Act 66 of 1995 as amended.