



**PUBLIC HEALTH AND WELFARE SECTORAL
BARGAINING COUNCIL (PHWSBC)**

RESOLUTION 1 OF 2006

**AGREEMENT ON THE TRANSFER OF EMPLOYEES
FROM THE DEPARTMENTS OF SOCIAL DEVELOPMENT
TO THE SOUTH AFRICAN SOCIAL SECURITY AGENCY
(SASSA)**

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1. PREAMBLE

- 1.1. In terms of section 27(1)(c) of the Constitution of the Republic of South Africa, Act 108 of 1996, everyone has a constitutional right to have access to social security.
- 1.2. The legislature has enacted the Social Assistance Act, 13 of 2004 ("the Assistance Act") and the South African Social Security Agency Act, 9 of 2004 ("the Agency Act") conferring the responsibility to the South African Social Security Agency ("the Agency") to manage, administer and pay social assistance.
- 1.3. The commencement of the Assistance Act and section 4 of the Agency Act will have the effect of transfer of the responsibility to manage, administer and pay social assistance from the provinces to the Agency. It is envisaged that the Agency will be the sole agent for the management, administration and payment of social assistance.
- 1.4. Section 24 of the Agency Act enjoins the Minister and the MECs in effecting the transfer of the social assistance function, and consequently the employees, from the departments to the Agency, to ensure that there are no disruptions or interference with the rights of the beneficiaries.
- 1.5. The parties recognize the importance of ensuring the smooth transfer of the services from the departments to the Agency and, as such, make an undertaking that the transfer shall be free of disruption and that the employees are guaranteed of uninterrupted employment with the Agency.
- 1.6. Having regard to what has been stated above, the parties agree, as set out hereunder, to effect the transfer of the employees, who perform the management, administration and payment of social assistance from the departments to the Agency in terms of section 197 of the Labour Relations Act, 66 of 1995 ("the LRA");

Now therefore the Parties agree as follows –

2. INTERPRETATION AND DEFINITIONS

In this Agreement, the following expressions shall, unless otherwise stated or are inconsistent with the context in which they appear, bear the following meanings and cognate expressions—

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- 2.1. **"The Agency"** means the South African Social Security Agency (SASSA) established in terms of the Agency Act;
- 2.2. **"Agreement"** means this Agreement together with any annexures, as amended from time to time;
- 2.3. **"Council"** means the Public Health and Welfare Sectoral Bargaining Council;
- 2.4 **"Department(s)"** means the National and/or Provincial Departments of Social Development, interchangeably referred to as 'the old employer';
- 2.5 **"Employee(s)"** means an employee in the employ, either on permanent or fixed-term contract basis, of the Department whose jobs are affected by the transfer of the social assistance function to the Agency;
- 2.6 **"MEC"** means a Member of the Executive Council responsible for Social Development in a Province;
- 2.7 **"Minister"** means the Minister for Social Development;
- 2.8 **"New employer"** means the Agency;
- 2.9 **"Old employer"** means the Department/s;
- 2.10 **"Parties"** means parties to this agreement;
- 2.11 **"Provinces"** means provinces as listed in section 103(1) of the Constitution;
- 2.12 **"Services"** means the management, administration and payment functions of social assistance to be transferred to the Agency;
- 2.13. **"Transfer"** means a change of employer by operation of law, namely, section 197 of the LRA, 1995 as amended;
- 2.14 **"Transfer date"** means a date expressed in the letter of transfer to the transferring employee as at transferring date;
- 2.15 **"Trade Unions"** means registered recognised trade unions in the Council that are party to this agreement.

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3. SCOPE OF APPLICABILITY

This Agreement binds –

3.1. The Old Employer;

3.2. The New Employer;

3.3. The Trade Unions and their members who fall within the registered scope of the Council; and

3.4. The employees who are not members of any of the Trade Unions and who fall within the registered scope of the Council.

4. PURPOSE

The purpose of this agreement is:

4.1 To ensure transfer of employees from the Department to the Agency in terms of section 22 of the Agency Act, read with section 197 of the LRA, without disruption to the management, administration and payment of social assistance;

4.2 To ensure adequate protection for the rights of the transferred employees.

5. PRINCIPLES

5.1. The transfer of the services to the Agency will not result in the dismissal, on the basis of operational requirements, of any employee transferred to the Agency;

5.2. Such transfer shall be carried out in a fair, equitable and transparent manner. The transfer of the social assistance service shall be the only criterion to qualify for transfer;

5.3. The transfer of employees shall be automatic as envisaged and set out in terms of section 197 of the LRA.



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6. AGREEMENT

The parties undertake as follows.

6.1 The transfer shall not interrupt an employee's employment, and all the rights and obligations existing on the date of transfer between the old employer and the employee, shall be binding between the new employer and the employee as if they were rights and obligations entered into between the new employer and the employee (See annexure "A" annexed hereto);

6.2 The transferring employees will continue as members of the Government Employees Pension Fund and will be subject to the provisions of the Government Employees Pension Law, regulations promulgated thereunder and any amendments thereto;

6.3 Any disciplinary steps instituted or being considered against a transferring employee will be dealt with in terms of the prevailing provisions of the Labour Relations Act, 1995 and applicable collective agreements as amended.

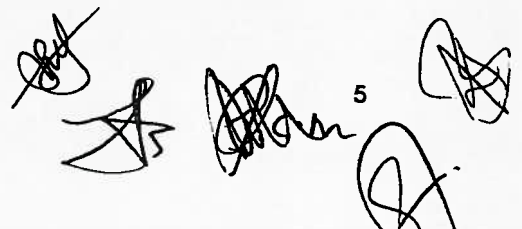
6.4 All the organisational rights between the respective Trade Unions and the old employer as at the date of transfer shall transfer to the new employer and the respective Trade Unions until such time that new organisational rights are negotiated in a recognised bargaining structure.

6.5 The payment of salaries and benefits of those employees transferring to the Agency shall be paid by the Department until such time the Agency has capacity to do so.

7. DISPUTE RESOLUTION PROCEDURES

7.1 Any a dispute about the interpretation or application of this agreement may be referred to the PHWSBC and shall be dealt with in terms of the dispute resolution procedure of the Council.

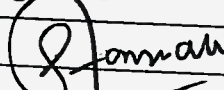
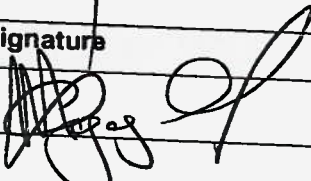
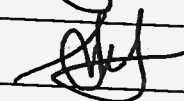
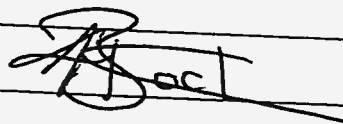
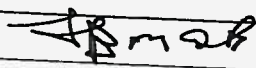
7.2 Any dispute between the new employer and transferred employees about the interpretation and application of this agreement will be referred to the Commission for Conciliation Mediation and Arbitration (CCMA) for adjudication.

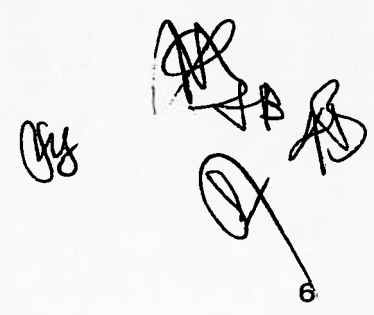
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8. DURATION, TERMINATION AND AMENDMENTS TO THIS AGREEMENT

- 8.1. The duration of this agreement shall be from the date of signing, and shall terminate upon expiry of one calendar year from the date on which the Minister, after consultation with the Trade Unions, announces that the transfer to the Agency has been duly completed.
- 8.2. Amendments to this agreement shall be in writing and signed by the parties
- 8.3. The parties shall enter into negotiations about any proposed amendments to this Agreement.

SIGNED AT CENTURION ON THIS 3rd DAY OF March 2006

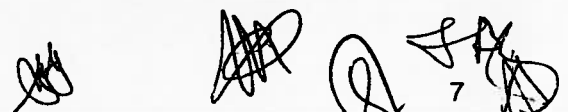
ON BEHALF OF THE EMPLOYER		
State as employer	Name	Signature
	J. T. Cornwall	
ON BEHALF OF THE TRADE UNION PARTIES		
Trade Union	Name	Signature
DENOSA	Jabu C. Magaia	
HOSPERSA		
EHAWU	Shereen Samuel	
NUPSAW		
PSA	Bock	
ON BEHALF OF THE NEW EMPLOYER		
South African Social Secur Agency	Name	Signature
	F. Makiwane	



ANNEXURE A

LIABILITY FOR ACCRUED EMPLOYEE BENEFITS

1. The department/s agree to a valuation of accrued benefits and payments as at the date of transfer in respect of transferring employees. A valuation of the department/s' liability in respect of the following benefits and payments will be made available to the National Department for transfer to the Agency:
 - 1.1 Accrued leave.
 - 1.2 Capped leave
 - 1.3 Service Bonus.
 - 1.4 Long Service Awards.
 - 1.5 Severance Pay.
 - 1.6 Outstanding payments, e.g. merit awards, overtime and any other benefits and allowances.
 - 1.7 Post Retirement Medical Assistance liability.
 - 1.8 Outstanding rank and leg promotions
 - 1.9 Any other terms and conditions of employment, inclusive of collective agreements reached in the PSCBC and the PHWSBC
- 2 Accrued benefits for the purposes of capped leave will be transferred back to the department/s by the Agency upon termination of service initiated by an employee through, *inter alia*, resignation or abscondment, etc.
- 3 The department/s will be liable for any claims and damages associated with and arising from pending disciplinary matters, grievances and disputes prior the date of transfer and not related to the transfer processes.
- 4 With respect to disciplinary matters, grievances and disputes related to or associated with the transfer of the social assistance function from the department/s to the Agency, the department/s will be jointly and severally liable, and in the case of the apportionment of liability between them, the terms of that apportionment will apply.

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- 5 The department/s and the Agency agree to the liabilities and payment thereof, should any employee become entitled to receive such payment. The liabilities may be apportioned where necessary.
- 6 The department/s shall disclose the contents of the above agreement to the employees identified for the transfer.

FUNDING ARRANGEMENTS

Guiding Principles

- 1 The department/s agree to ensure that adequate provision is made for all financial obligations arising from the transfer of employees.
- 2 The department/s agree to make the appropriate funds available for all future liabilities related to the transfer in respect to the department/s' responsibilities.
- 3 A thorough analysis of the current and medium term budgets of the department/s will be done to ensure that funds are available to cover current and future obligations.

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