



# SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL

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4 May 2023

**TO: ALL MUNICIPAL MANAGERS  
ALL HUMAN RESOURCES DIRECTORS**

**THE PARTIES:**

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SAMWU  
IMATU

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**REGIONAL SECRETARIES:**

Gauteng/Johannesburg/Tshwane Division  
Eastern Cape Division  
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NorthWest/Mpumalanga/Limpopo Division  
KwaZulu-Natal/eThekweni Division

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## CIRCULAR 4/2023

### CONFLICT BETWEEN SALGBC COLLECTIVE AGREEMENTS AND MUNICIPAL STAFF REGULATIONS

1. The conflict between provisions of the Municipal Staff Regulations (Regulations), and any provision of a Collective Agreement has been considered and discussed between COGTA and the SALGBC parties.
2. The background to this matter is that after COGTA issued the Regulations in September 2021 and conducted workshops across the country, members of the parties' expressed concerns regarding implementation of certain provisions of the Regulations that are in conflict with the provisions of SALGBC Collective Agreements. In particular, the provisions relating to acting appointments in the applicable Divisional Collective Agreements were discussed, which may affect matters which include the level and period of acting in a higher post as well as the allowance to be paid in the higher post.
3. At a meeting held with COGTA on 1 July 2022, COGTA was informed that certain provisions in the Regulations, especially those with regard to acting appointments, are in conflict with provisions in existing Collective Agreements. This makes it difficult for

parties and municipalities to know whether to comply with the Regulations or the Collective Agreements.

4. COGTA stated that its position is that where there a conflict with the Regulations or Guidelines and Collective Agreements, the Collective Agreements must prevail. COGTA based its position on Section 52 of the Municipal Systems Act, which provides that if there is an inconsistency between regulations issued and labour legislation, the labour legislation prevails. Moreover, Section 71(3) of the Municipal Systems Act enjoins all municipalities to comply with any Collective Agreements concluded in the SALGBC.
5. The parties to the SALGBC (IMATU, SAMWU and SALGA) agree that the SALGBC Collective Agreements must prevail over the Regulations.
6. The SALGBC parties at the recent Executive Committee held on 14 March 2023 resolved as follows:
  - a) The Bargaining Council to issue a circular advising that COGTA has advised the parties that where there is a conflict between collective agreements and the Municipal Staff Regulations, the collective agreements will prevail especially regarding acting, in terms of the provisions of Section 52 of the Municipal Systems Act. Municipalities must also comply with collective agreements concluded in the Bargaining Council in terms of Section 71 (3) of the Municipal Systems Act.
7. In the view of the SALGBC parties, Municipalities are bound by and must comply with the SALGBC Collective Agreements, in terms of the provisions of Section 52 and Section 71 (3) of the Municipal Systems Act.
8. Please note that this Executive Committee resolution applies to Collective Agreements concluded either at the Central Council Level or Divisional Level of the SALGBC as well as Collective Agreements concluded at municipal level, between the municipality, SAMWU and IMATU.
9. Please post this circular on employee notice boards.

Yours faithfully

  
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**SS GOVENDER**  
**GENERAL SECRETARY**