

REPUBLIC
OF
SOUTH AFRICA



REPUBLIEK
VAN
SUID-AFRIKA

Government Gazette Staatskoerant

Regulation Gazette

No. 6358

Regulasiekoerant

Vol. 401

PRETORIA, 27 NOVEMBER 1998

No. 19506

GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

DEPARTMENT OF LABOUR DEPARTEMENT VAN ARBEID

No. R. 1517

27 November 1998

LABOUR RELATIONS ACT, 1995

CLOTHING INDUSTRY (NATAL): EXTENSION OF MAIN COLLECTIVE AGREEMENT TO NON-PARTIES

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of section 32 (2) of the Labour Relations Act, 1995, declare that the collective agreement which appears in the Schedule hereto, which was concluded in the Bargaining Council for the Clothing Industry (Natal) and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the agreement, shall be binding on the other employers and employees in that Industry, with effect from 30 November 1998 and from the period ending 30 June 2005.

M. M. S. MDLADLANA
Minister of Labour

No. R. 1517

27 November 1998

WET OP ARBEIDSVERHOUDINGE, 1995

**KLERASIENYWERHEID (NATAL): UITBREIDING VAN HOOF KOLLEKTIEWE
OOREENKOMS NA NIE-PARTYE**

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, verklaar hierby, kragtens artikel 32 (2) van die Wet op Arbeidsverhoudinge, 1995, dat die Kollektiewe Ooreenkoms wat in die Bylae hiervan verskyn en wat in die Bedingsraad vir die Klerasienywerheid (Natal) aangegaan is en kragtens artikel 31 van die Wet op Arbeidsverhoudinge, 1995, bindend is op die partye wat die ooreenkoms aangegaan het, bindend is vir die ander werkgewers en werknemers in daardie Nywerheid, met ingang van 30 November 1998 en vir die tydperk wat op 30 Junie 2005 eindig.

M. M. S. MDLADLANA**Minister van Arbeid**

Nota: 'n Afrikaanse vertaling van die ooreenkoms by die Engelse kennisgewing is op aanvraag beskikbaar by die Bedingsraad.

SCHEDULE**BARGAINING COUNCIL FOR THE CLOTHING INDUSTRY (NATAL)**

made and entered into by and between the

MAIN COLLECTIVE AGREEMENT**Natal Clothing Manufacturers' Association**

(hereinafter referred to as the "employers" or the "employers' organisation"), of the one part,

and the

Southern African Clothing and Textile Workers' Union

(hereinafter referred to as the "employees" or the "trade union"), of the other part,

bein the parties to the Bargaining Council for the Clothing Industry (Natal).

1. SCOPE OF APPLICATION

(1) The terms of this Agreement shall be observed in the Clothing Industry (Natal)—

- (a) by all employers who are members of the employers' organisation and who are engaged in the Clothing Industry (Natal) and by all employees who are members of the trade union and who are employed in the said Industry;
- (b) in the Magisterial Districts of Chatsworth, Durban, Inanda, Pinetown, Pietermaritzburg, and Lower Tugela.

(2) Notwithstanding the provisions of subclause (1), the terms of the Agreement shall—

- (a) apply in respect of employees for whom wages are prescribed in this Agreement; and
- (b) not apply in respect of employees whose basic wages exceed two and a half times the wage rate for a qualified Grade 1 employee or whose occupation is monthly paid and of a managerial, specialist technical or non-production related nature.

(3) (a) The purpose of this Agreement shall be to establish levels of remuneration and other conditions of employment for employees without seeking to restrict entrepreneurial initiative and employment opportunities.

(b) Employers employing five (5) or less employees shall, upon application to the Council in terms of clause 23, be exempted from this Agreement.

(c) Where an employer or an employee can satisfy the Council that any of the provisions of this Agreement are restricting entrepreneurial initiative and/or employment opportunities such employer or employee may apply to the Council for exemption from those specific provisions in terms of clause 23 of this Agreement.

(4) Clauses 1 (1) (a), 2 and 4 (5) of this Agreement shall not apply to employers and employees who are not members of the employers' organisation and trade union respectively.

2. PERIOD OF OPERATION OF AGREEMENT

This Agreement shall come into operation on a date to be fixed by the Minister of Labour in terms of section 32 (2) of the Act and shall remain in force for the period ending 30 June 2005.

3. DEFINITIONS

Any expressions used in this Agreement which are defined in the Act shall have the same meaning as in the Act. Any reference to an Act includes any amendments of such Act, and, unless the contrary intention appears, any reference to one gender shall include the other, further, unless inconsistent with the context—

"Accounting Officer" means—

- (a) any Manager or Secretary of an establishment who is a member of a recognised profession as set out in section 60 of the Close Corporations Act, 1984; and
- (b) any other person approved by the Council.

"Act" means the Labour Relations Act, 1995;

"assistant head cutter" means a person who assist the head cutter in creating designs, styles, fashions and in making patterns, grading patterns and planning cutting jobs;

"assistant storeman" means an employee other than a labourer who, under the supervision of a storeman, assists in issuing or receiving goods;

"automatic hydraulic hat presser" means an employee operating an automatic hydraulic hat press used solely for shaping hats;

"bandknife cutter" means an employee who cuts out all articles of wearing apparel, linings, trimmings or interlinings with a bandknife;

"baster" means an employee engaged in hand sewing in setting a coat or parts of a coat into position preparatory to other operations and/or underbasting, i.e. hand sewing of linings of coats into position preparatory to sewing the edge seams;

"belt man" means an employee other than a learner mechanic, engaged in fixing machine belts, oiling bearings, filling oil cans and similar work and assisting the establishment's mechanic;

"Bespoke Tailoring Industry" means the making of outer garments for and to the measurements of individual persons but excludes the making of tailored outer garments for the execution of special measure orders from dealers whose customer's measurements are taken by or on the responsibility of such dealers and the making of all classes of garments including quantity production tailoring made to the order of any department of State, Provincial Administration, Transnet and the S A Airways or local authorities;

"boiler attendant" means an employee who, under the supervision of a foreman or factory manager, is responsible for maintaining the water level and steam pressure of a boiler in an establishment, and who may stoke, rake, slice and draw the fire in such boiler;

"cardboard box maker" means an employee engaged in operating a cardboard box making machine;

"cleaner" means an employee engaged in cutting or trimming off loose ends of cotton left in the garments by previous operators;

"clerical employee" means an employee who is engaged in—

- (a) writing, typing and filling;
- (b) operating a calculating machine, computer terminal, punch card machine or accounting machine;
- (c) any other clerical work and includes a cashier, despatch clerk, storeman, shipping clerk, invoice clerk, work study clerk and telephone switchboard operator but does not include any other class of employee elsewhere defined, notwithstanding the fact that clerical work may form part of such employee's work.

"clicker" means an employee who cuts out parts of garments from dies using a mechanical or hydraulic press;

"Clothing Industry" or **"Industry"**, without in any way limiting the ordinary meaning of the expression, means the Industry in which employers and employees are associated for the making of all classes of tweed and linen hats, millinery, ties, belts, braces, suspenders, brassieres, corsetry, and all classes of outer and undergarments, including knitted garments, shirts, collars, pyjamas and other night wear and underclothing and all operations incidental thereto and consequent thereon carried on by such employers and any of their employees but does not include retail dressmaking, retail millinery or the making of tailored outer garments to the measurement of individual persons, but includes the making of tailored outer garments for the execution of special measure orders from dealers whose customers' measurements are taken by or on the responsibility of such dealers, and the making of all classes of garments, including quantity production tailoring made to the order of any department of State, Provincial Administration, Transnet and the S A Airways, or local authorities;

"coat-turner" means an employee engaged in turning coat facings out after machining;

"Council" means the Bargaining Council for the Clothing Industry (Natal), registered in terms of section 29 of the Act;

"cutter" means an employee who cuts out all articles of wearing apparel, linings, trimmings or interlinings by any method;

"conveyor feeder" means an employee responsible for feeding prepared parts of garments on to a conveyor for further operations and who may be assisted by one or more sorters;

"conveyor" or **"conveyor belt"** means a special machine used for the purpose of conveying articles or shirts and/or clothing from one employee to another on an automatic moving belt;

"despatch packer" means an employee who, under the supervision of a foreman or clerical employee, is wholly or mainly engaged in making up orders and in packing goods for transport, including the sealing of cellophane bags by hand or machine, or delivering in connection with the despatch department of an establishment;

"dressmaker" means a person engaged in making dresses to individual measurements for private persons;

"earnings" means the total remuneration due to an employee for the time actually worked;

"employee" means—

- (a) any person within the scope of application of this Agreement as set out in clause 1, excluding an independent contractor, who works for another person in the Clothing Industry and who receives, or is entitled to receive, any remuneration; and

- (b) any other person within the scope of application of this Agreement as set out in clause 1, who in any manner assist in carrying on or conducting the business of an employer in the Clothing Industry.

"establishment" means any place in which any operation in connection with the Clothing Industry is carried on;

"examiner" means an employee who examines finished garments for quality;

"experience" means the total period of employment an employee has had in the Bespoke Tailoring and/or the Clothing Industry, whether within the Republic of South Africa or elsewhere, in any capacity other than as a driver of a motor vehicle, or mechanic, and shall include—

- (a) in the case of a clerical employee, all periods of employment which such employee has had as a clerical employee, irrespective of the trade, industry or undertaking in which such experience was gained;
- (b) in the case of a retail or private dressmaker seeking employment in the Clothing Industry in a capacity other than that of a clerical employee, traveller, mechanic, belt man, boiler attendant or driver of a motor vehicle, half of his total experience as a retail or private dressmaker;
- (c) in the case of a presser and/or folder who has been in the Laundry Trade, seeking employment as a presser, ironer and/or folder in the Clothing Industry, half of his total experience in the Laundry Trade;
- (d) in the case of all other employees, each completed period of six months' training in any work similar to that for which wages are prescribed in this Agreement will entitle the employee to one increment on the appropriate wage scale;

"factory clerk" means an employee who is engaged in one or more of the following duties and capacities:

- (a) Calculating bonus payments from production schedules for the computation of wages;
- (b) checking or recording for production control;
- (c) copying invoices or other documents by machine or hand;
- (d) issuing machine parts, tools, oil and other equipment from a workshop store and/or recording same;
- (e) checking attendance records or recording particulars of employees at work or absent from work, preparing wage cards or envelopes for subsequent use by another employee;
- (f) checking invoices or other documents;
- (g) filing of documents;
- (h) recording particulars of waste.

"finisher by hand" means an employee who performs one or more of the following operations by hand: Putting pads or wadding into shoulders of coats; fastening or serging sleeve-heads; felling silk facings already basted into position; making button-holes by hand, felling sleeve-head linings, holding such in position with the fingers; beader or embroiderer by hand.

"fitter-up" means an employee who takes the outside garments together with the cut out linings (called trimmings) and adjusts the outside and insides together accurately so that parts may go forward to the machine to be put together correctly;

"folder" means an employee engaged in the folding of garments by machine or by hand and buttoning up of garments;

"foreman" means an employee who carries the responsibility for the correct and efficient execution of the work entrusted to his care in a factory or a department of a factory;

"General Worker Heavy Work" means an employee who is engaged in one or more of the following occupations:

- (a) Binding, wiring or strapping boxes or bales or other containers;
- (b) loading or unloading vehicles, trailers or international standard containers;
- (c) carrying or stacking goods;
- (d) mixing rubber solution for rubberised garments;
- (e) general gardening work;
- (f) washing or polishing of floors and staircases by machine or by hand.

"General Worker Light Work" means an employee who is engaged in one or more of the following occupations:

- (a) sweeping with a broom and/or dusting and wiping down chairs and tables;
- (b) folding and/or inserting mail, affixing postage stamps or labels for posting;
- (c) making and serving tea or similar beverages and washing crockery, cutlery and kitchen utensils;
- (d) marking, stencilling or affixing labels on boxes, bales or other containers by hand;
- (e) delivering letters or messages or light parcels within the factory premises;
- (f) operating a duplicating and/or addressograph and/or franking machine;
- (g) mopping and/or washing of toilet facilities.

"Grade I employee" means an employee engaged in one or more of the following duties or capacities:

- (1) Baster;
- (2) clicker;
- (3) conveyor feeder;
- (4) examiner;
- (5) finisher by hand;
- (6) fitter-up;
- (7) folder;
- (8) lay copier;
- (9) machinist;
- (10) maker of bows for dresses;
- (11) operator of automatic lace, embroidery or monogramming machine;
- (12) presser;
- (13) seam welder;
- (14) setter of automatic pleating machines;
- (15) shaper;
- (16) sloper;
- (17) any other employee not elsewhere specified;
- (18) factory clerk.

"Grade A Employee" means an employee engaged in any one of the following duties or capacities:

- (1) General worker heavy work;
- (2) layer by machine;
- (3) underpresser.

"Grade II employee" means an employee engaged in any one or more of the following duties or capacities:

- (1) Assistant storeman;
- (2) automatic hydraulic hat presser;
- (3) belt man;
- (4) boiler attendant;
- (5) cardboard box maker;
- (6) cleaner;
- (7) coat turner;
- (8) covering buckles by hand or machine and/or trimming and cleaning belts after lining and belt having been machined together;
- (9) cutter of traveller's swatches;
- (10) despatch packer;
- (11) eyelet punching and letting;
- (12) guiding material with paper through automatic pleating machine;
- (13) hat sprayers, i.e. those spray painting hats;
- (14) ironer of fusible interlinings with hand iron positioning and spot fusing of fusible interlinings with special machine;
- (15) marker;
- (16) operator of hand/or machine-operated button-covering machine;
- (17) operator of a shrinking press;
- (18) operator of a semi-automatic or automatic fusing machine;
- (19) operator of a semi-automatic press stud-machine;
- (20) operator of zip machine;
- (21) packer;
- (22) patent turner (hand or machine);
- (23) pinner;
- (24) plain sewer;
- (25) putting fasteners on caps;

- (26) putting material between two paper looms (formers) and preparing for steambox in hand or loom pleating process;
- (27) putting prepared formers in steambox and taking them out again in hand or loom pleating;
- (28) rivetting buckles, bending belt buckles, punching holes for buckles and prongs, pressing prongs into buckles, stapling buckles onto belt;
- (29) rubberising, i.e. waterproofing processes on the work of smearing rubber solution upon seams or edges and rolling them over with a small wooden hand roller, cleaning off any rubber solution, painting seams or oilskins and waterproof hats;
- (30) sorter;
- (31) spreading of PVC (plastic solution) in waterproofing process and/or on raincoats and protective wear;
- (32) Stamper;
- (33) raking material out of looms in hand or loom pleating process;
- (34) waterproofing seams;
- (35) winder or unwinder of lace, embroidery, braids, ribbons, bindings and elastic;
- (36) layer by hand;
- (37) general worker light work.

"hat sprayer" means an employee engaged in spray painting hats,

"head cutter" means the person who actively supervises the cutting room and who designs, styles and fashions, makes patterns, grades patterns and who plans cutting jobs;

"hourly wage or rate" means the weekly wage divided by $42\frac{1}{2}$.

"knitted garments" means all classes of knitted garments, excluding fully fashioned garments and hosiery. For the purpose of this definition "fully fashioned garments" means garments and/or components thereof which are fully shaped on a knitting machine, and such garment and/or components thereof shall be deemed not to require marking-in or cutting or any succeeding process or operation;

"Laundry Trade" means the trade in which employers and employees are associated for the purpose of laundering, cleaning or dyeing all types of woven, spun, knitted or crocheted fabrics or articles made from such fabrics, including all operations incidental thereto or consequent thereon, if carried out by such employers and their employees;

"lay copier" means an employee engaged in placing of numbered patterns on a lay to conform with a numbered photograph, diagram or plan;

"layer by hand" means an employee engaged in laying up materials by hand preparatory to cutting;

"layer by machine" means an employee engaged in laying materials by machine preparatory to cutting;

"learner" means an employee whose period or periods of employment does not entitle him to be paid the qualified wage prescribed in clause 4 (1) for an employee of that class;

"machinist" means an employee who performs by sewing machine any operation in the making of clothing;

"marker" means an employee engaged in marking the position of pockets, buttons and/or button holes;

"mechanic" means an employee engaged in the installation, repair and maintenance of boilers and machinery;

"monthly wage" means the weekly wage multiplied by four and one-third;

"motor vehicle driver" or "driver of a motor vehicle" means an employee engaged in driving a motor vehicle and for the purposes of this definition "driving a motor vehicle" is deemed to include all periods of driving and any time spent by the driver on work connected with the vehicle or the load, and all periods during which he is obliged to remain on duty in readiness to drive;

"night shift" means any period of work performed in an establishment, the major portion of which falls between the hours 18:00 and 06:00;

"packer" means an employee engaged in packing garments into boxes or other suitable wrappings or tying them into bundles prior to their being sent to the despatch department;

"patent turner" means an employee engaged in turning out or over the edges of collars, facings, bands, cuffs, pockets and/or flaps whether by hand or machine;

"paternity" means any event connected to the birth or adoption of a child parented by a male employee;

"piece-work" means any system by which earnings are calculated upon the quantity or output of work performed;

"pinner" means an employee engaged in pinning unfinished and/or finished garments;

"plain sewer" means an employee engaged solely in performing by hand one or more of the following operations:

Tacking permanent turn-ups; tacking waistband linings; sewing on hooks and eyes, tickets and/or press studs; fastening catch in tops of trousers; sewing on buttons; making and sewing on hangers; felling crutch linings in trousers, felling bottoms and waist-band linings and various odds and ends of sewing; felling necks of vests; fastening edge stays and odds and ends of sewing; felling bottoms of linings or seams of same already basted into position; felling bindings; fastening facings inside already basted in position;

- "premium"** means, without in any way limiting the ordinary meaning of the term, any consideration of whatever nature given in return for the training of an employee;
- "presser"** means an employee employed in pressing the finished garment by hand or machine;
- "qualified employee"** means in relation to an employee in the Industry, an employee other than a learner, labourer, watchman and driver of a motor vehicle;
- "qualified wage"** means the maximum wage prescribed in clause 4 (1) for an occupation;
- "rates"** means piece-work rates or rates of payment for overtime;
- "retail dressmaking"** means the making of single garments for girls and women to the measurement of individual persons, not as special measure orders from dealers whose customers' measurements are taken by or the responsibility of such dealers;
- "retail millinery"** means the making of hats in shops for sale in such shops and the making of hats to the measurements of individual persons;
- "seam welder"** means an employee who joins seams by any method other than by a thread-sewing machine;
- "setter of automatic pleating machines"** means an employee engaged on setting of pleats on automatic pleating machines;
- "shaper"** means an employee engaged in shaping the lapels and collars of coats preparatory to underbasting;
- "shop steward"** means an employee at any establishment who has been duly elected as a shop steward in terms of the constitution of the trade union and who has been recognised by the employer as a shop steward;
- "short-time"** means working time that is reduced below the usual number of working hours in the establishment when such reduction is due to slackness of work or the exigencies of the Industry;
- "sloper"** means an employee engaged in marking or trimming the shape of the necks in the shirt section, preparatory to other operations;
- "sorter"** means an employee engaged in sorting out garments or parts of garments for the various operations;
- "stamper"** means an employee engaged in stamping the size or identity work numbers on garments or parts of garments, or on any article connected with packaging or despatching of garments;
- "storeman"** means an employee in charge of the main stock room of an establishment;
- "task-work"** means the setting by an employer or his representative to an employee of a definite number of garments or portions of garments to be made up by such employee in a specified time;
- trimmer"** means an employee engaged in marking in and/or cutting linings and interlinings;
- "under-presser"** means an employee other than a presser employed in pressing processes;
- "unladen mass"** means the mass of any motor vehicle and/or trailer as expressed in a licence or certificate issued by a licensing authority in respect of such motor vehicle or trailer. Provided that in the case of a two or three-wheeled motor vehicle (other than a mechanical horse), the unladen mass shall be deemed to be under 454 kg;
- "watchman"** means an employee engaged in guarding premises, buildings or other property;
- "weekly wage"** or **"wage"** means that portion of the remuneration payable in money to an employee in respect of the ordinary hours of work set out in clause 9 (1);
- "waterproofing seams"** means waterproofing of a threadsewn seam by means of a hot press;
- "workshop"** means any premises in which one or more employees are engaged on operations in the Clothing Industry.
- In classifying an employee for the purpose of this Agreement he shall be deemed to be in that class in which he is wholly or mainly engaged.

4. WAGES

- (1) No employer shall pay and no employee shall accept wages lower than the weekly wages prescribed hereunder:

Prescribed Occupation	Number of months in industry: inclusive							
	0-6	7-12	13-18	19-24	25-30	31-36	37-42	>43
Grade 1	2931,50	254,50	273,75	347,85				
Grade 2	228,50	302,45						
Grade A	240,35	309,65						
Cutter and trimmer	219,35	245,00	269,85	299,00	349,60			
Bandknife cutter	246,20	272,60	297,50	325,80	368,15			
Assist head cutter	446,70							
Head cutter	558,50							

Prescribed Occupation	Number of months in industry: inclusive							
	0-6	7-12	13-18	19-24	25-30	31-36	37-42	>43
Clerical employee	254,95	287,80	314,85	374,90				
Foreperson.....	428,75							
Mechanic.....	277,60	318,80	365,80	412,90	463,10	509,20	554,60	601,60
Watchman	312,50							
Driver								
<454 kg	293,70							
454-2 722 kg	321,40							
2 722-4 540 kg	374,60							
>4 540 kg	453,00							

Whenever a qualified grade 2 employee is transferred to another occupation classified as the work of a grade 1 employee, he shall receive not less than his existing rate of pay for a period of six months and thereafter, on completion of that period, he shall receive his next increment and thereafter the prescribed increments in his new occupation. An unqualified grade 2 employee who is transferred to another occupation classified as the work of a grade 1 employee, shall be paid not less than the wage he was receiving prior to his transfer, but shall be paid the prescribed increments in his new occupation.

(2) Nothing in this Agreement shall operate to reduce the wage which was being paid to any employee at any time prior to or at the date of commencement of this Agreement.

(3) An employee employed as a conveyor feeder shall receive the wages prescribed for an employee of this class, plus 10 per cent.

(4) (a) Any increase in the wage to which a learner becomes entitled as a result of previous experience shall become payable on the accruing date unless the employee has been absent from work of his own accord for a period longer than seven days in the aggregate in any of the six-monthly qualifying periods provided for in this clause. The accruing date, when an increase of wage falls due to him, may be advanced to the equivalent of the number of days in excess of seven days that he has been absent from work of his own accord in any of his six-monthly qualifying periods.

(b) In the case of an employee who has yearly qualifying periods, the accruing date when an increase of wages falls due to him, may be advanced to the equivalent of the number of days in excess of 14 days that he has been absent from work on his own accord in any of his yearly qualifying periods.

(5) Unless otherwise stated in this Agreement, the Council shall be the sole forum for the purposes of negotiating matters regulated in this Agreement, inclusive of the Sick Benefit Fund Agreement and the Provident Fund Agreement, and the trade union shall not seek to improve the remuneration of employees in the Industry nor seek to re-negotiate any matters which are regulated in the aforementioned Agreements during the periods of operation of such Agreements: Provided that—

- the trade union shall be entitled to submit demands to the employers' organisation for the sole purpose of commencing negotiations for any agreement if such agreement is intended to replace any of the aforementioned Agreements at the expiry of their respective periods of operation; and
- notwithstanding anything to the contrary contained herein, the remuneration of employees employed at a particular establishment may be negotiated between the employer of that establishment and his employees provided any improvement thereof is specifically linked to productivity improvement.

5. SHIFT ALLOWANCE

(1) A twelve and a half percent (12½%) allowance shall be paid to all workers engaged in shift work calculated on the basic minimums.

(2) Shift work shall mean a regular pattern of rotating hours of work and/or a regular pattern of work which falls outside normal working hours.

6. TASK-WORK

Task-work is prohibited.

7. SHORT-TIME

(1) Where short-time is being or has been introduced in any establishment, an employee who attends at the establishment on any day shall, unless he has prior to such date received notice that his services will not be required on such day, be employed for at least half a day or be paid half a day's wages in lieu thereof.

(2) If, owing to slackness of trade, it is found impossible to work full-time, short-time shall be worked by distributing the work evenly, as far as practicable, in any section or department concerned.

(3) When it is necessary to introduce short-time in any factory the clock cards shall be suitably endorsed in respect of each employee so affected.

(4) The provisions of this clause shall not apply to watchmen.

(5) Whenever an employee, as a result of the introduction of short-time in any establishment, works for less or is paid for less than five full days during any period of four consecutive weeks, such employee's contract of employment shall be deemed to have been terminated by the employer in terms of clause 21 (2) upon the last day of such four weeks and the employer shall pay to the employee, in lieu of notice, the amounts provided for in clause 21 (2).

8. PAYMENT OF WAGES AND OVERTIME

(1) (a) An employer shall pay wages and other remuneration in sealed envelopes on which shall be reflected, or which shall be accompanied by a slip or statement showing—

- (i) the name and Council number of the employee;
- (ii) weekly rate of pay;
- (iii) total hours worked;
- (iv) date up to which payment is made;
- (v) total amount contained in the envelope;
- (vi) details of all deductions [in terms of subclause (6)]; and
- (vii) the amounts paid in respect of work done on Sundays.

All such information shall be either machine-printed, or written in ink, or shall be clear carbon copy. Such payments shall be made in cash weekly on Fridays, during working hours, at the establishment of the employer within half an hour before the closing time of the establishment: provided that, where an employee's services do not terminate on the ordinary payday of the establishment concerned, any amounts due to him shall be paid immediately upon such termination. [This clause shall not apply to monthly-paid employees who are in receipt of at least R650 per month and clerical employees, who are provided for in paragraph (b) hereof].

(b) An employer shall pay wages to monthly paid employees who are in receipt of at least R650 per month and clerical employees who are engaged on a monthly basis, not later than the last day of each calendar month, or upon termination of their employment, if this should take place before the ordinary payday of the employee.

(2) On every day on which wages or other remuneration are payable in terms of subclause (1) (a)—

- (a) every employer shall by 14:00 have available in cash in the establishment the full amount to be paid;
- (b) the envelopes referred to in subclause (1) (a) shall be duly completed and sealed at least one hour before the closing time of the establishment.

(3) Where work is performed by employees organised in sets or teams, every employee shall be paid his earnings by the employer in whose establishment the work is performed or by his representative.

(4) An employer shall pay to an employee who, during any part of any week, is employed on more than one class of work for which different weekly wages are hereby prescribed, the highest of such different weekly wages for the whole of such week.

(5) An employee other than a watchman, engaged on night shift, shall be paid not less than the remuneration prescribed for his class of work in clause 4 of this Agreement, plus 12½ per cent.

(6) No employer shall make a deduction of any description from amounts due to an employee in respect of wages or overtime, except in the following circumstances:

- (a) Whenever an employee is absent from work otherwise than on the instructions or at the request of his employer, a deduction proportionate to the period of his absence and calculated on the basis of the wage which such employee was receiving in respect of his ordinary hours of work at the time thereof may be made unless otherwise provided in this Agreement;
- (b) in any establishment where the regular weekly hours of work are less than 42½, the employee may be paid for the actual number of hours worked at the hourly rate: Provided that an employee shall be paid an amount not less than 40 times the hourly wage in respect of any week's work;
- (c) deductions may be made by an employer for insurance or pension funds with the written consent of the employee;
- (d) contributions to Council funds shall be deducted in terms of clause 25 of this Agreement;
- (e) deductions shall be made by the employer in terms of the Provident Fund Agreement of the Clothing Industry (Natal);
- (f) the costs of scissors supplied to employees may be deducted;
- (g) if, owing to the accidental stoppage of machinery, no work is available for an employee, deductions may be made by the employer from the wage of such employee only for the time lost which is in excess of one hour in respect of each stoppage;
- (h) any amount which an employer is legally compelled or permitted to pay on behalf of any employee may be deducted;

- (i) contributions to the Sick Benefit Fund shall be deducted in terms of clause 35 (3) of this Agreement;
- (j) deductions for trade union subscriptions shall be made in terms of clause 27 (2) of this Agreement;
- (k) where short-time has been introduced, the employee shall, subject to the provisions of clause 7 of this Agreement, be paid for the actual time worked.

9. HOURS OF WORK AND OVERTIME

(1) Hours of Work: A five day week shall be observed from Monday to Friday inclusive and the ordinary hours of work of an employee shall not exceed—

- (a) 42½ hours, excluding meal intervals in any week from Monday to Friday, inclusive;
- (b) 8½ hours on any day between the hours of 07:00 and 18:00;
- (c) except that, in the case of an employee wholly engaged as a boiler attendant, the weekly hours may be 45 and the daily hours may be 9.

(2) (a) All hours of work in any day shall, except for meal intervals, be consecutive.

(b) An employer shall not require or permit an employee to work more than five consecutive hours continuously without a meal interval of at least half an hour, provided that if such interval be for longer than half an hour, the period in excess of half an hour shall be deemed to be hours of work.

(3) An employee shall be deemed to be working in addition to any period during which he is actually working—

- (a) during the whole of any interval in his work if he is not free to leave the workroom of his employer for the whole of such interval;
- (b) during any other period during which he is in the workroom of his employer:

Provided that if it is proved that any such employee was not working and was free to leave the workroom during any part of any such period, the presumption provided for in this sub-clause shall not apply in respect of such employee with reference to that part of such period.

(4) (a) All time worked—

- (i) in excess of the ordinary hours set out in clause 8 (1); or
- (ii) before 07:00 and after 18:00 on Monday to Friday, except in the case of boiler attendants,

shall be deemed to be overtime.

(b) No employer shall require or permit an employee to work overtime for more than—

- (i) 10 hours in any week;
- (ii) two hours on any day (Monday to Friday).

(c) No overtime in excess of one and a half hours, from Monday to Friday, may be required or permitted of an employee unless the employer—

- (i) has given notice thereof to such employee the previous day;
- (ii) provides such employee with an adequate meal before he/she has to commence overtime or pays such employee an allowance of R5,00 in sufficient time to enable him to obtain a meal before the overtime is due to commence.

(d) An employee shall not be required to work overtime without his consent and an employee shall not be dismissed by reason of his refusal to work overtime.

(5) No overtime in excess of that stated in terms of clause 9 (4) (b) shall be allowed unless permission has been obtained, in writing, from the Council prior to the performance of such work. In cases of urgency, the Secretary may issue provisional authority, which shall be valid until the next meeting of the Council.

(6) In respect of overtime worked an employer shall pay to—

- (a) an employee wholly or mainly engaged as a boiler attendant at a rate which is not less than one and a half times the weekly wage prescribed for an employee of his respective class of work divided by 45;
- (b) an employee who is employed as a piece-worker at a rate which is not less than 1½ times the piece-work rates or 1½ times his weekly wage divided by 42½, whichever is the greater;
- (c) all other employees, at a rate which is not less than one and a half times the weekly wage divided by 42½, provided that if overtime calculated on a daily basis differs from that calculated on a weekly basis, the basis more favourable to the employee shall be adopted;
- (d) an employee in respect of overtime worked on a Sunday which is in excess of 4¼ hours or after 12h00 at double the ordinary hourly rate.

(7) Sunday work: Whenever an employee works on Sunday with the written permission of the Council, his employer shall either—

(a) pay to the employee—

- (i) if he so works for a period not exceeding four hours, not less than the ordinary remuneration payable in respect of the period ordinarily worked by him on a week-day; or

- (ii) if he so works for a period exceeding four hours, remuneration at a rate not less than double his ordinary rate of remuneration, in respect of the total period worked on such Sunday, or remuneration which is not less than double the ordinary remuneration payable in respect of the period ordinarily worked by him on a week-day, whichever is the greater; or
- (b) pay the employee remuneration at a rate not less than one and one-third times his ordinary rate of remuneration in respect of the total period worked on such Sunday and grant him within seven days of such Sunday one day's holiday and pay him in respect thereof remuneration at a rate not less than his ordinary rate of remuneration as if he had on such holiday worked his average ordinary working hours for that day of the week.
- (8) (a) There shall be installed and maintained in working order in every establishment—
 - (i) one or more bells, or other audible signals, which shall operate automatically and indicate all times for starting and for stopping work;
 - (ii) one or more time clocks for the clocking in and out of employees: Provided that an employee shall be paid for the time which the employee has worked notwithstanding that the employee has not clocked in or clocked out.
- (b) Unless written exemption is obtained from the Council or Exemptions Board in terms of clause 23, every employee shall, unless prevented by sickness or other unavoidable circumstances at the establishment, clock in and clock out every working day, and no employee may clock in for any other employee in such establishment.
- (9) (a) The employer shall grant to each employee rest intervals of not less than 15 minutes during the morning work periods and 10 minutes during the afternoon work periods. Rest intervals shall be granted as nearly as practicable to the middle of each morning and afternoon and such intervals shall be reckoned as part of the usual working hours, but no employer shall require an employee to perform work during such interval.
- (b) For the purposes of this sub-clause the first half of any working shift of more than five hours shall be deemed to be a morning work-period, and the second half of any such shift, an afternoon work-period.
- (10) No employer shall allow an employee to work a night shift unless permission has been obtained in writing, from the Council, prior to the performance of such work.
- (11) An employer may, in order to make up time lost through not working on any day which is a normal working day, permit his employees to work overtime on any day except Sunday prior or subsequent to the day not worked at ordinary rates of pay, provided such working-in takes place within a twelve (12) calendar month period of the original day not worked.
- (12) The provisions of this clause shall not apply to watchmen, except as provided below:
 - (a) (i) An employer shall grant to each of his watchmen one full day of rest during every seven consecutive days, but, if an employer requires or permits such an employee to work on his day of rest, the hours worked shall be deemed not to be part of the ordinary hours of work, and the employee shall be paid for such work an amount of not less than double his daily wage;
 - (ii) an employer shall grant his watchmen, other than a daily employee, not less than six days of rest in every six consecutive weeks of employment.
 - (b) Provided that—
 - (i) an employer shall make no deduction from the watchman's wage in respect of days of rest;
 - (ii) an employer may, in lieu of granting his watchman any such day of rest, pay him double his daily wage in respect of each such day of rest not granted;
 - (iii) where a watchman's contract of employment terminates before he has been granted all the days of rest to which he has become entitled by virtue of this sub-clause, his employer shall pay him in respect of each such day of rest not granted an amount of not less than his daily wage;
 - (iv) for the purposes of this sub clause the expression "day of rest" means a period of 24 consecutive hours calculated from the time the watchman normally commences duty, and "daily wage" means the employee's weekly wage divided by six.

10. PUBLIC HOLIDAYS

- (1) For the purposes of this clause, "public holiday" shall mean a public holiday as defined in the Public Holidays Act, 1994, and includes the remainder of the day following the first 4½ hours after starting time on the Thursday before Good Friday.
- (2) If an employee does not work on a public holiday [as defined in subclause (1) above]—
 - (a) which falls on a day which otherwise is an ordinary working day for him, his employer shall pay to him in respect of that public holiday an amount not less than the remuneration payable to him in respect of the time (excluding overtime) which is ordinarily worked by him on that day of the week;
 - (b) which falls on a Saturday or during the period of annual leave referred to in clause 14, his employer shall pay to him in respect of that public holiday an amount not less than one fifth of his ordinary weekly wage.
- (3) Whenever an employee works on a public holiday which otherwise is an ordinary working day for him, his employer shall pay him remuneration at a rate not less than his ordinary hourly wage in respect of the total period worked on that public holiday in addition to the remuneration he would ordinarily have received [as set out in subclause (2) (a) above].

(4) Whenever an employee works on a public holiday which otherwise is not an ordinary working day for him, his employer shall pay him—

- (a) either an amount at least equal to the remuneration payable to him in respect of the time (excluding overtime) ordinarily worked by him on a working day; or
- (b) remuneration at a rate not less than his ordinary hourly wage in respect of the total period worked on that public holiday,

whichever is the greater, in addition to an amount not less than one fifth of his ordinary weekly wage.

(5) Remuneration payable to an employee in terms of subclauses (2), (3) or (4) shall be paid out to him no later than the payday next succeeding the day in respect of which such remuneration is payable.

11. RECORDS

(1) All records with regard to wages required to be kept in terms of Section 32 of the Unemployment Insurance Act, 1966, or in terms of this Agreement, shall be completed by 12:00 on each Friday.

(2) Every employer shall keep as part of his records a clock card to be used in connection with the time clocks referred to in clause 9 (8) in respect of each employee for each week or part of a week for which wages are due and payable, such clock card to form the basic document for the computation of remuneration.

(3) All clock cards, or other types of records, shall, in accordance with the requirements of section 205 (2) of the Act be kept for a period of three years subsequent to the date of the record and, on request, shall be available for the inspection by an agent of the Council.

(4) In addition to the powers of the agents of the Council as set out in clause 30 of this Agreement and section 33 (3) read with section 142 of the Act, the agent(s) may at any time, for the purpose of ensuring that the provisions of the Act and this Agreement are being complied with—

- (a) cause to be investigated any books, records or documents of any employer, whether or not the same are required to be kept in terms of any law and whether or not the same are at any establishment;
- (b) take and retain copies of any such books, records or documents.

12. WORK IN THE CLOTHING INDUSTRY

(1) No employer shall require his employees to work and no employee shall work in premises other than an establishment provided, equipped, maintained and controlled by such employer, and which shall be registered with the Council in terms of Clause 19 of this Agreement.

(2) An employer shall not allow any work in the Clothing Industry to be performed in a dwelling-house.

(3) No employee engaged in the employ of one establishment may perform work in another establishment without first having been discharged by the first establishment and re-registered by the second establishment.

13. PROPORTION OR RATIO OF EMPLOYEES

(1) (a) *Cutters*: Every employer shall employ a head cutter before employing any cutters: Provided that in a factory where 30 machines or less are operated and where the employer performs the duties of a head cutter in his establishment he need not employ an employee of the said class. Any such employer shall, however employ an assistant head cutter before employing any cutters. No more than three learner cutters shall be employed to each qualified cutter. For ratio purposes as assistant head cutter is considered as a qualified cutter.

(b) *Grade I employee*: One qualified employee shall be employed before a learner may be employed, and the number of learners who may be employed shall not exceed two learners to each qualified employee.

(c) *Grade II employee excluding cleaners*: One qualified employee shall be employed before a learner may be employed, and the numbers of learners who may be employed shall not exceed three learners to each qualified employees in terms of this clause.

(d) *Cleaners*: Notwithstanding the provisions of paragraph (c) hereof, one qualified employee shall be employed before a learner may be employed and the number of learners who may be employed shall not exceed three learners to each qualified employee.

(e) Qualified employees referred to in paragraphs (b) and (c) of this subclause and surplus to the requirements of such paragraphs, shall be deemed to be qualified employees in terms of this clause.

(2) For the purposes of this clause, a learner who is being paid not less than the wage of a qualified employee may be deemed to be a qualified employee.

(3) For the purposes of this clause a qualified employee who under exemption is paid less than the wage stipulated for qualified employees shall not be treated as a qualified employee.

(4) No employee who has been absent from work for a continuous period of four weeks for any reason except illness, shall be taken into account when calculating ratio.

14. ANNUAL LEAVE

(1) (a) Every employer shall grant to each of his employees, whether employed on piece-work or on time-work, who has been in his employ for a continuous period of not less than 12 months, not less than three consecutive weeks' annual leave, between 15 December and 15 January annually, at 15 days' wages. For the purposes of this sub-clause a "day's wage" shall mean the weekly wage divided by five.

(b) Every employer shall prior to 30 November of each year advise the Council of the dates during which his factory will be closed for annual leave.

(2) (a) Save as provided for in subclause (3) (d) every employer shall lodge with the Council a guarantee acceptable to the Council to cover the payment of holiday pay due to his employees, alternatively forwarded monthly to the Secretary of the Council, P.O. Box 18354, Dalbridge, 4014, holiday pay due to each of his employees, at the rate of one and one-quarter of a day's pay for each completed 30 days of service, such payments to be made not later than 10 days after the end of each calendar month to which it refers: Provided that the holiday pay for the months November and December shall be forwarded to the Secretary of the Council not later than 7 December of each year and the total of such holiday pay shall be distributed by the Council to the employees concerned not later than 24 December of that year.

(b) An employee whose service are terminated before the date on which leave is to granted in terms of subclause (1) (a) shall be paid holiday pay amounting to one and a quarter of a day's pay for each completed 30 days' service. Such holiday pay shall, in the case of an employer who has put up an approved guarantee in terms of subclause (2) (a) be paid by the employer upon the date the employee's services are terminated. Where the employee's holiday pay has been paid to the Council as provided for in subclause (2) (a) the holiday pay shall be paid to the employee by the Council within a period of three weeks from the date on which application for payment is made to Council. Holiday pay shall not be due or payable to a person who has deserted from service.

(c) An employer shall grant to an employee who at the date of granting leave has not completed 12 months' continuous employment with him, leave for a similar period to that referred to in subclause (1) (a): Provided that in the case of an employer who has put up an approved guarantee in terms of subclause (2) (a), he shall only pay the employee holiday pay at the rate of one and a quarter of a days' pay for each completed 30 days' service.

(d) For the purposes of subclause (2) "days of service" shall mean calendar days.

(3) (a) All holiday pay received by the Council shall be held in trust. The difference between holiday pay paid by the Council to employees in terms of subclause 2 (a) and (b), and the amount of holiday pay paid by the employer to the Council in terms of subclause 2 (a) shall be refunded to the employer not later than 31 January of the following year.

(b) A list of employees who are to be paid holiday pay by the employer as provided for in subclause (1) (a) hereof, showing Council number, name, rate of pay, period of employment for which holiday pay is due and amount of holiday pay due to each such employee shall be forwarded by the employer to the Council not later than 7 December of each year.

(c) Whenever a guarantor advises the Council that a guarantee for holiday pay is to be withdrawn, the Council shall notify the employer, in writing, of such withdrawal and the employer shall within the notice period give by the guarantor lodge a fresh guarantee with the Council in terms of subclause (2) (a).

(d) All guarantees furnished to the Council in terms of a previous published agreement shall be deemed to have been furnished in terms of this Agreement.

(4) An employer who closes his factory for any period between 15 December and 15 January in order to grant his employees their annual holiday plus statutory holidays, may close for a period not exceeding four weeks without being liable for the payment to any employee of any wages in excess of the amounts due in terms of subclause (1) hereof, in respect of such period.

(5) An employer, having reached agreement with his employees and having notified the Council accordingly, may close his factory for less than the three-week annual holiday period; provided that he closes his factory for not less than two weeks: Provided further that the additional one week's holiday is taken by employees before 30 June of the following year. Employees shall be paid for leave when it is taken.

(6) Any period during which an employee—

- (a) is on leave in terms of this clause; or
- (b) is absent from work on the instructions or at the request of the employer; or
- (c) is absent from work owing to illness,

shall be deemed to be a period of employment for the purposes of subclause (1) and (2) hereof, provided that—

- (i) the provisions of paragraph (c) shall not apply in respect of any period of absence owing to illness of more than three consecutive days if the employee, not being an employee referred to in subparagraph (iii) and fails, after a request for such certificate by the employer, to submit to the employer a certificate issued by a Sick Benefit Fund medical officer appointed in terms of clause 35 stating that the employee was prevented by illness from doing his work (although clerical employees may produce such certificate from any practitioner); and
- (ii) the provisions of paragraph (c) above shall not apply in respect of the part of any total period of absence exceeding 30 days during any 12 months of employment; and

- (iii) an employee whose employer is required in terms of any Act of Parliament to provide for the care and treatment of such employee when sick or injured shall not be required to submit a certificate by a medical practitioner in respect of any period of absence referred to in subparagraph (i).

(7) An employer may make mutual arrangements with: his employees in receipt of R650 per month or more, clerical employees, drivers of motor vehicles, foremen, mechanics, watchmen, or employees solely engaged in cleaning premises or in the delivery of goods or messages, to take their annual leave at a period other than between 15 December and 15 January: Provided that such leave shall be granted within two months of the completion of the year of employment to which it relates.

(8) Where the Council holds holiday pay on behalf of an employee, who ceased to be employed in the Clothing Industry during the course of that calendar year, for a period of six months from the date on which it became due to such employee or to the end of that calendar year, whichever is the later, such holiday pay shall be refunded to the employer if unclaimed within the said period: provided that an employee may make application to the Council for payment of his holiday pay after expiry of the said period and such application shall be considered by the Council on its merits.

(9) All payments for leave to which an employee is entitled under subclauses (1) to (10) shall be made at the employees actual rate of pay.

(10) Holiday pay due to employees at the end of each year in terms of this clause, shall be calculated at the rate of pay an employee was earning when his leave commenced in December each year.

(11) An employer shall give not less than 30 days' provisional notice and not less than 15 days' definite notice of the date of which annual leave will commence by exhibiting such notice(s) in a prominent place in the factory readily accessible to the employees.

(12) The period of leave specified above shall not run concurrently with any period during which an employee is under notice of termination of employment.

(13) Notwithstanding anything to the contrary contained in this clause, an employer may, in terms of an agreement between himself and his employees, set off against the period of annual leave any days of occasional leave granted on full pay to employees during the period of 12 months employment prior to which the period of annual leave relates, provided that the occasional leave so granted shall not exceed two days.

15. HOLIDAY LEAVE BENEFIT (ANNUAL BONUS) FUND ACCOUNT

(1) The Fund known as the Holiday Leave Benefit Fund Account for the Clothing Industry (Natal), originally established on 13 November 1992 in terms of Government Notice No. R. 310 is hereby continued, the purpose of which is to provide for an annual bonus to employees. The Fund Account is administered by the Council.

(2) The Fund Account shall maintain individual employer accounts which shall consist of—

- (a) contributions paid into the Fund Account in accordance with the provisions of this Agreement;
- (b) interest derived from the investment of any moneys of the Fund Account.
- (c) any other moneys to which the Fund Account may become entitled.

(3) (a) For the purposes of the Fund every employer shall contribute 2% of the weekly earnings of an employee's wage rate as prescribed in clause 4 (1) of this Agreement which shall be forwarded monthly, no later than the 10th day of each month, to the Secretary of the Bargaining Council.

(b) Such total sum must be accompanied by a list showing the Council registration numbers of the employees and the amounts contributed.

(4) An employee is entitled to a benefit of 2% of the actual annual basic wages earned with the employer by whom he is employed on the day of factory closure: Provided that he is still in that employer's service. This benefit is payable to him in December of each year on the day of factory closure. This benefit is inclusive of and not additional to any annual bonus paid by an employer.

(5) Notwithstanding the provisions of subclause (4), an employee shall not suffer a reduction in the amount of the annual holiday leave benefit as a result of periods of authorised absence from work.

16. MATERNITY LEAVE

(1) Every employer shall acknowledge the right of an eligible employee to reasonable security of employment prior to, during and following confinement and notwithstanding anything to the contrary contained in this agreement, the following special provisions shall apply to such employee.

(2) For the purposes of this clause unless a different meaning appears from the context—

- (a) "**Casual Employee**" shall mean a casual employee as defined in the Basic Conditions of Employment Act, 1983.
- (b) "**Continuous Service**" shall mean the period of employment during which an employee's name has remained continuously on the employers employment register.
- (c) "**Eligible Employee**" shall mean a permanent employee other than a casual or temporary employee who is or was pregnant and who has been in the continuous service of the same employer for a minimum period of twelve (12) months at the commencement of that employee's maternity leave.

- (d) **"Maternity Leave"** shall mean the period of leave to which an eligible employee is entitled by virtue of the provisions of this clause.
- (e) **"Permanent Employee"** shall mean an employee other than a casual or temporary employee who is in continuous employment with an employer and whose conditions of employment are regulated by the provisions of this agreement.
- (f) **"Provident Fund"** shall mean The Clothing Industry (Natal) Provident Fund.
- (g) **"Sick Benefit Fund"** shall mean the Sick Benefit Fund as provided for in clause 35 of this Agreement.
- (h) **"Temporary Employee"** shall mean an employee other than a casual or permanent employee whose employment contract is for a fixed pre-determined period of time.

(3) An employee shall not be permitted to work during the period commencing four (4) weeks prior to the expected date of confinement and ending eight (8) weeks after the date of confinement.

(4) (a) Subject to compliance with the provisions of this clause, an eligible employee proceeding on maternity leave shall be entitled to a maternity benefit payment equal to $3\frac{1}{4}$ weeks of such employee's wage rate as prescribed in clause 4 (1) of the Clothing Industry (Natal) Main Agreement, paid by the Sick Benefit Fund; provided that such payment is not made earlier than four weeks prior to the expected date of confinement, as certified by a current medical certificate issued by the Sick Benefit Fund.

(b) Maternity leave shall be for a maximum period of six (6) months in respect of the period before, during and after confinement.

(c) For the purpose of calculating length of service, maternity leave shall not be deemed to constitute a break in service other than as specified in this clause.

(d) Benefits which accrue to eligible employees arising from service e.g. annual leave and sick leave shall not accumulate during the period of maternity leave.

(5) (a) If an eligible employee elects to continue contributing to the Provident Fund and/or Sick Benefit Fund during maternity leave, the employer must continue his reciprocal contributions.

(b) Any benefits in terms of the Provident Fund and/or Sick Benefit Fund shall, subject to the rules of these funds, continue to accrue to a member.

(6) (a) An employer shall upon the expiry of maternity leave continue to employ an eligible employee in the same job grade and at the same rate of pay that was applicable immediately prior to the commencement of maternity leave, or at the new appropriate wage for the applicable job grade whichever is the greater, provided that—

- (i) at the time of granting maternity leave, the employee indicates the intention to return to work by completing and returning to the employer a form published for the purpose by the Council;
- (ii) such employee returns to work within a period of six (6) months calculated from the date of commencement of maternity leave;
- (iii) where suitable vacancy does not exist for a similar position within the same grade, such employee shall be employed on a temporary basis at a lower job grade, but without affecting pay, until a suitable vacancy arises;
- (iv) employment shall not be guaranteed where such employee has been selected for retrenchment on the basis of the criteria agreed between an employer and the union.

(b) An eligible employee who intends to return to work shall—

- (i) provide to an employer a medical certificate from a registered medical practitioner indicating that such employee is fit for work;
- (ii) advise the employer in writing on a form published for the purpose by the Council, of the intention to return to work at least one (1) month before returning to work confirming the date on which such employee will resume employment.

(c) A temporary employee engaged to fill the position of an eligible employee on maternity leave shall cease to be employed when the eligible employee returns to work, unless a suitable vacancy exists in which event the temporary employee may be employed to fill that vacancy on a permanent basis.

(d) An employee temporarily promoted and paid at the higher rate to fill a vacancy while an eligible employee is absent on maternity leave shall be demoted with consequent reduction in pay, when such employee returns to work, unless a suitable alternative vacancy exists.

(e) The union agrees that it shall not challenge the termination of service of a temporary employee or the demotion of a temporarily promoted employee in terms of the above paragraphs (c) and (d), provided that the temporary or temporarily promoted has signed a temporary contract of employment or promotion, in keeping with the pro-forma contract drafted by the Council.

17. PATERNITY LEAVE

Male employees, regardless of marital status, shall be entitled, subject to prior arrangement, to a maximum of three days' unpaid paternity leave per annum. The employer is entitled to require proof of paternity.

18. PREMIUMS FOR TRAINING

No premium shall be charged or accepted by an employer for training of an employee: Provided that this clause shall not apply in respect of a training scheme to which the employer is legally required to contribute.

19. REGISTRATION OF EMPLOYERS

(1) Every employer who has not already done so in pursuance of a previous agreement at the date of coming into operation of this Agreement and every employer who enters the Industry after that date shall within seven days of such date or on the date on which such employer commenced operations as the case may be forward to the Secretary of the Council, P.O. Box 18354, Dalbridge, 4014, by registered post, the following particulars which shall be in writing and signed by the employer or a person duly authorised to sign on behalf of the employer:

- (a) The trading name, business address and registered address of the establishment;
- (b) the full names and residential addresses of all partners and/or directors and/or members;
- (c) the full name and residential address of the responsible manager;
- (d) the section or sections of the Industry in which the establishment is engaged;
- (e) date of commencing operations.

(2) Written notification shall be sent by registered post to the Council by every employer of any alteration in respect of any details supplied in terms of subclauses (1) (a) to (e) of this clause, and such notification shall be given within 7 days of such alteration.

(3) Save as provided in subclause (6), every employer in the Industry at the date of coming into operation of this Agreement and every employer who enters the Industry after that date shall within seven days of such date or on the date on which such employer commenced operations, as the case may be, lodge with the Council, and at all times thereafter have with the Council, a guarantee acceptable to the Council to cover payment of one week's wages as prescribed in clause 4 of this Agreement for his employees and also to cover 12 weeks' levies due in terms of clauses 25 and 35 of this Agreement and clause 6 of the Provident Fund Agreement of the Council.

(4) Whenever cash is deposited with the Council in terms of subclause (3) above, such money shall be invested in a savings account, permanent shares or fixed deposits in any registered bank or financial institution. Any interest accruing thereon shall be paid to the employer by the Council not later than 31 January of each year.

(5) Whenever a guarantor advises the Council that a guarantee in terms of subclause (3) is to be withdrawn, the Council shall notify the employer, in writing, of such withdrawal and the employer shall within the notice period given by the guarantor lodge a fresh guarantee with the Council in terms of subclause (3).

(6) All guarantees furnished to the Council in terms of a previous published agreement shall be deemed to have been furnished in terms of this Agreement: Provided that the Council may at any time give the employer 14 days notice to the effect that any such guarantee is no longer acceptable and the employer shall within such period of 14 days lodge a fresh guarantee acceptable to the Council.

20. REGISTRATION OF EMPLOYEES

(1) An employer shall, before engaging an applicant for work, require the applicant to produce a service card issued by the Council. If the applicant is a new entrant into the Clothing Industry or cannot produce a Council service card, the provisions of subclause (2) (c) below shall apply.

(2) Upon engagement, the employer shall—

- (a) enter in the relevant columns of the service card: the name of his factory, the date of engagement, occupation, wage on engagement and total previous experience and shall retain the card in safekeeping so that it can be dealt with in terms of subclause (4) of this clause upon termination of service of the employee; and
- (b) complete a "Registration of Employee" form in triplicate, forward the original to the Council not later than Friday of that week, hand the duplicate copy to the employee and retain the triplicate copy for his records; and
- (c) in the case of an employee who is a new entrant into the Industry or an employee who cannot produce a Council service card—
 - (i) complete the "Registration of Employee" form in triplicate and send the applicant with the original and duplicate copy to the Council offices where he will be allocated a Council registration number, issued with a Council service card and be registered in the employ of the employer. The triplicate copy shall be retained by the employer for his records;
 - (ii) the employer shall acquire the service card of the employee before he commences work and the employer shall retain same until the employee's services are terminated and the service card is dealt with in terms of subclause (4).

(3) An employer shall forward to the Council for amendment the service card of any employee who is transferred from one category to another, the latter of which requires a higher rate of remuneration, within seven (7) days of such transfer.

(4) The service card shall be retained by the employer until the employee leaves his employer, whereupon the employer shall enter on the card the date of termination of employment, the occupation and the rate of pay on termination, and return the card to the employee after signing it.

(5) On the Friday of the week during which an employee's services are terminated, the employer shall forward to the Council a report of termination of service.

(6) The Council shall have the power to withdraw any record of service card which is subsequently found to contain incorrect information. The Council shall upon being furnished with the correct information, issue a fresh record card in lieu thereof.

21. TERMINATION OF SERVICE

- (1) An employer or an employee shall give, in writing—
 - (a) in the case of a weekly-paid employee, not less than one week's notice of the intention to terminate the contract of employment, such notice to commence on the employee's ordinary pay-day;
 - (b) in the case of a monthly-paid employee, not less than two week's notice of the intention to terminate the contract of employment, such notice to commence on the first or 15th day of the calendar month.
- (2) (a) An employer may terminate the contract of employment without notice by paying to the employee, in lieu of notice, an amount equal to not less than—
 - (i) in the case of a weekly paid employee, one full week's wages; and
 - (ii) in the case of a monthly paid employee, two weeks' wages.
- (b) An employee may terminate the contract of employment without notice by forfeiting wages and/or holiday pay due to him by the employer.
- (3) The provisions of subclauses (1) and (2) hereof shall not affect—
 - (a) the right of an employee or employer to terminate the contract of service without notice for any good cause recognised by law as sufficient;
 - (b) any agreement between an employer and employee which provides for a period of notice longer than one week, in which event wages in lieu of notice shall be correspondingly increased.
 - (c) the right of an employee who is working short-time in any week on the instruction of the employer to terminate his contract of service at any time after such instruction has been given, without giving notice: Provided further that, in the case of an establishment in which short time is being worked in terms of clause 7, an employee who has been given notice by his employer in terms of this subclause shall be paid a full day's pay, in respect of every day during the period of such notice upon which he attends a such establishment and is available for work the whole day, or in respect of which he has been notified by the employer that his services will not be required;
 - (d) the operation of any forfeitures or penalties which, by law, may be applicable in respect of desertion by an employee;
 - (e) the right of an employee to withdraw such notice of his intention to terminate his contract of employment provided it is done in writing within two (2) working days of having been tendered.
- (4) An employer may terminate the contract of employment on grounds of incapacity where the employee has been absent from work due to ill-health or injuries for a period of time. In these circumstances—
 - (a) the employer shall consider the following factors before terminating the contract of employment:
 - (i) Whether the employee is capable of performing the work; and
 - (ii) if the employee is not capable—
 - (a) the availability of any suitable alternative work;
 - (b) the extent to which the employee's duties and/or work circumstances might be adapted to accommodate disability;
 - (iii) alternatives to dismissal.
 - (b) An employee shall be allowed an opportunity to state his case and to be assisted by a trade union representative in the process of investigations referred to in paragraph (b) above.
 - (c) Provided that the provisions of this sub-clause shall not limit the employee's right to challenge his dismissal in terms of the Act.
- (5) The period of notice shall not run concurrently with nor shall notice be given during, an employee's absence on leave granted in terms of clause 14.
- (6) This clause shall not apply to an employee during his first week of employment. Such an employee shall be paid for at least four hours, notwithstanding that such employee has worked for a lesser period during his first week of employment.
- (7) (a) Notwithstanding anything to the contrary contained in this Agreement the first fifteen (15) working days of the period of employment of any employee shall be deemed to be a probationary period.
- (b) The dismissal of an employee during the probationary period shall be preceded by an opportunity for the employee to state his case in response and to be assisted by a trade union representative.

22. DISCIPLINARY AND GRIEVANCE PROCEDURES

- (1) Every employer shall permit the trade union to negotiate with it a disciplinary procedure and grievance procedure appropriate to its individual circumstances.
- (2) The provisions of this clause in terms of the implementation thereof may be read with the document headed "Guidelines for the Implementation of Disciplinary and Grievance Procedures", which documents is available to employers and employees from the offices of the Council.

23. EXEMPTIONS

(1) (a) The Council may grant exemption from any of the provisions of this Agreement to or in respect of any employer or employee, and the Council must grant such exemption if exemption has been applied for by a non-party to the Council and the Exemptions Board established in terms of subclause (2) hereunder requests the Council to do so.

(b) An application for an exemption or exemption or exclusion must be made in writing on the specified form to the Council.

(2) **Exemptions Board**

(a) *Establishment:* In terms of section 32 of the Act the Council hereby establishes an independent body, to be known as the Exemption Board to consider Applications for Exemption by non-parties from any of the provisions of the Agreement for any good and sufficient reason.

(b) *Composition of the Board:* The Exemptions Board ("the Board") shall consist of a Chairperson and four members, each of whom may have an alternate.

(c) *Appointment of Chairperson:* The Board shall appoint as Chairperson of the Board a person who is not a party or member of a party to the Council and who, in the opinion of the Council, will be generally acceptable to employees and employers in the Clothing Industry.

(d) *Termination of Appointment of Chairperson:* The office of Chairperson shall become vacant if—

- (i) he resigns from office;
- (ii) he fails to attend two consecutive meetings of the Board without good cause;
- (iii) he becomes a party to or a member of a party to the Council;
- (iv) the vacancy arises for any cause recognised by law.

(e) *Appointment of Members of the Board:* The Council shall request the institutions listed in the schedule promulgated in terms of section 207 of the Act from time to time to nominate members and alternates to the Board.

(f) *Termination of Membership of the Board:* A member's position shall become vacant if—

- (i) he resigns from office;
- (ii) he fails to attend two consecutive meetings of the Board without good cause;
- (iii) he becomes a party to or a member of a party to the Council;
- (iv) the vacancy arises for any cause recognised by law.

(g) *Duty of Chairperson:* The Chairperson shall preside at all meetings of the Board, and in conjunction with the Secretary of the Council, after consultation with the members of the Board, shall set the time, date and venue for meetings of the Board. He shall endeavour to ensure that members apply their minds properly to the granting of exemptions and that they comply with the requirements of clause 23 of this Agreement.

(h) *Duties of the Board:* The Board shall consider each application for exemption from the provisions of the Agreement with due regard to the criteria set out in subclause 3 below, and shall decide whether the exemption applied for should be granted, and if so under what conditions and for what period. In the event of less than two thirds of the members present who have the right to vote at the meeting at which the decision is to be taken, voting in favour of the application, such Application for Exemption shall be refused. The Board shall furnish clear reasons as to why it has made its decision. A decision shall be made within 30 days of the application having been referred, unless the Applicant agrees to an extension of the period. The Board may request further information from either the Applicant or the Council in order to arrive at a decision. Should a member of the Board have any personal interest in the outcome of the exemption being considered he shall declare such interest prior to the consideration of the exemption.

(3) The following criteria shall be applied in considering applications for exemptions:

- (a) The application must be supported by the employer's workforce following consultations with employees at plant level;
- (b) the application must be supported by a business plan which demonstrates the sustained viability of the business in the event of the exemption being granted;
- (c) applications must be supported in writing by the Applicant's accounting officer;
- (d) the Applicant must have an agreed future payment plan with the Council in respect of any outstanding monies;
- (e) exemptions from the sick benefit fund and provident fund may be granted where the Applicant offers membership of a comparable, suitable alternative fund to its employees;
- (f) the exemption applied for may not be in conflict with the primary objections of the Act;
- (g) any other relevant factor.

(4) The Secretary of the Council shall record the following details in respect of an exemption granted in terms of subclauses (1) and (2) above:

- (a) The full name of the exempt employer or employee;
- (b) the provisions of this agreement in respect of which exemption is granted;
- (c) the conditions subject to which exemption is granted;
- (d) the period during which the exemption shall operate.

(5) The Secretary of the Council shall—

- (a) number consecutively all exemptions issued;
- (b) retain a copy of each exemption issued;
- (c) forward a copy of the licence to the employer concerned where exemption is granted to an employee.

(6) The Council, and in the case of a non-party, the Exemptions Board, may withdraw an exemption granted in terms of this clause after one (1) weeks' written notice to the employer or employee concerned for any good reason, including, the failure to observe the conditions subject to which the exemption was granted.

(7) Upon receipt of the notice referred to in subclause (6) the affected employer or employee may appeal against the withdrawal to the Board referred to in subclause (2).

(8) Employers employing five (5) or less employees shall, upon application to the Council, be exempted from this agreement.

24. PERSONS UNDER THE AGE OF 15 YEARS

No employer shall employ any person under the age of 15 years.

25. COUNCIL FUNDS

(1) Every employer shall deduct 20c per week from the earnings of each of his employees (other than employees exempted from the provisions of this clause by the Council, in writing, in terms of clause 23) or whom minimum wages are prescribed in the Agreement.

(2) The total so deducted together with an equal amount which shall be contributed by the employer shall be forwarded together with a list showing Council registration numbers of employees detailing particulars of contributions, to the Secretary of the Council, P.O. Box 18354, Dalbridge, 4014, to reach him no later than 10 days after the end of each calendar month.

26. SACTWU BURSARY FUND

(1) The SACTWU Bursary Fund is administered by SACTWU for the benefit of employees in the Industry.

(2) This fund is financed by means of a contribution by the employer of 20c per employee per week.

(3) The total contribution by the employer shall be forwarded to Council not later than the 10th day of the month following that in respect of which the contributions were made, together with a list detailing employee Council numbers and particulars of contributions.

(4) Whenever proceedings are instituted against an employer for failure to pay outstanding contributions to the SACTWU bursary fund, the employer shall pay interest on such amounts outstanding, calculated from the date or dates when such amounts became due and payable, at the bank prime rate prevailing on that date.

27. MEMBERSHIP AND DEDUCTIONS

(1) The production of a membership card issued by the trade union shall be proof of membership of the trade union.

(2) Every employer is hereby authorised to deduct from the weekly wages of his employees who are members of the trade union, the amount of weekly subscriptions payable by such employees to the trade union. Such employer's shall forward the amount so deducted not later than the tenth day of each month, together with a list showing the name of the employees and the amounts to the Secretary of the Council, who shall in turn forward same to the Secretary of the trade union.

28. ACCESS TO AND ORGANISING FACILITIES ON AN EMPLOYERS' PREMISES BY THE TRADE UNION

(1) Every employer shall permit duly accredited trade union officials who are so authorised in writing by the Council, to enter its premises in order to undertake *bona fide* union business provided that—

- (a) the employer reserves the right of admission to its premises as proprietor or occupier thereof;
- (b) such access shall be by prior arrangement with the employer;
- (c) union officials comply with the employer's prevailing security, safety and health rules;
- (d) meetings with employees are held outside their working hours.

(2) (a) Every employer shall allow the distribution of the Union newspaper on its premises and shall provide the trade union with notice board facilities for the display of union notices, subject to the prior approval of the employer of every notice displayed.

(b) Should the employer not approve a notice or document which it is proposed to display or distribute, which approval shall not be unreasonably withheld, it shall be withdrawn from the employer's premises by the union immediately.

(3) Where available and commensurate with the individual circumstances and the size of an establishment, every employer shall provide to the union shop stewards reasonable facilities to enable them to discharge their bona fide trade union duties in respect of such employer, including the use of a telephone and a meeting venue, provided that the use of such facility shall be subject to prior permission being sought and obtained from the employer and that during normal working hours there shall not be unnecessary disruption to an employers operations.

(4) A document entitled: Guidelines for the Implementation of the Provisions of clause 28 of the Main Agreement, is available to employers and employees from the offices of the Council.

29. RIGHTS OF TRADE UNION REPRESENTATIVES

(1) Every employer shall permit the election of shop stewards by union members in terms of section 14 (1) of the Act.

(2) The nomination, election, terms of office and removal from office of a shop steward shall be governed by the trade union constitution, as lodged with the Registrar of Labour Relations in terms of section 96 of the Act.

(3) Every employer shall recognise the right of shop stewards to assist and represent employees who are union members in grievance and disciplinary proceedings.

(4) Duly elected shop stewards are each entitled to eight (8) working days paid leave per calendar year pooled per establishment to be used at the discretion of the trade union for *bona fide* trade union activities, provided that the employer is given at least ten (10) working days prior notice thereof. (For the purpose of this clause a "working day" shall mean any day excluding a Saturday and Sunday, a public holiday in terms of this agreement and the period of annual shut-down).

(5) A document entitled: "Guidelines for the election and rights of shop stewards" is available to employers and employees from the office of the Council.

30. AGENTS

(1) The Council may request the Minister of Labour to appoint one or more specified persons as designated agents to assist in enforcing the terms of this Agreement.

(2) Any such designated agent shall have the right to—

- (a) subpoena for questioning any person who may be able to give information relevant to the enforcement of this Agreement;
- (b) subpoena any person who is believed to have possession or control of any book, document or object relevant to the enforcement of this Agreement, to appear before the agent to be questioned or to produce that book, document or object;
- (c) enter and inspect any premises or place in which the Clothing Industry is carried on at any time when he has reasonable cause to believe that any person is employed therein, or that a book, document or object relevant to the enforcement of this Agreement may be found on or in the premises;
- (d) examine and demand the production of and seize of any notice, book, list or document which is by this Agreement required to be kept, exhibited or made or which is relevant to the enforcement of this Agreement;
- (e) require the production of, inspect, examine and copy all records of time worked, clock cards, books or documents wherein an account is kept of time worked or actual wages, or rates whether payable for piece-work or not, paid to any employee whose wages are fixed by this Agreement;
- (f) take a statement in respect of any matter relevant to the enforcement of this Agreement from any person on the premises who is willing to make a statement.

(3) A subpoena issued for any purpose in terms of subclause (2) shall be signed by the Secretary of the Council and shall—

- (a) specifically require the person named in it to appear before the agent;
- (b) sufficiently identify the book, document or object to be produced; and
- (c) state the date, time and place at which the person is to appear.

(4) A designated agent shall obtain written authorisation from the Secretary of the Council before exercising the powers referred to in paragraphs (c), (d) and (f) and subclause 2.

(5) Such designated agent when entering, inspecting or examining any such place, may take with him an interpreter.

(6) Every employer and employee upon whom the provisions of this Agreement are binding shall grant to such designated agent all the facilities referred to above.

31. EXHIBITION OF AGREEMENT, WAGE RATES AND HOURS OF WORK

(1) Every employer shall keep a legible copy of this Agreement exhibited in his establishment in a place readily accessible to his employees.

(2) Every employer shall give a copy of this Agreement—

- (a) to an employee who has paid the prescribed fee; and
- (b) free of charge, on request, to an employee who is a trade union representative.

(3) One or more notices, provided by the Council, showing wage rates payable in the Clothing Industry in Natal shall be prominently displayed by every employer in such place or places as may be indicated by the agent.

(4) Every employer shall display in his establishment in a place readily accessible to his employees a notice specifying the starting and finishing time of work for each day of the week and the meal intervals.

32. ADMINISTRATION OF AGREEMENT

The Council shall be the body responsible for the administration of the Agreement, and may issue expressions of opinion not inconsistent with its provisions for the guidance of employers and employees.

33. TRADE UNION'S REPRESENTATIVES OF THE COUNCIL

Every employer shall give to any of his employees who are representatives on the Council every reasonable facility to attend to their duties in connection with the work of the Council: Provided that in establishment employing five or fewer employees the trade union shall give the employer five working days written notice of its request for time off in terms of this clause, for its representative.

34. WORKING PROPRIETORS AND/OR WORKING PARTNERS

Working proprietors and/or working partners engaged in manufacturing operations in the Clothing Industry and who are employers shall observe the working hours laid down in clause 9 of this Agreement.

35. SICK BENEFIT FUND

(1) The Sick Benefit Fund (hereinafter referred to as the "Fund") established under Government Notice No. 1845 of 11 November 1938, is hereby continued. The Fund shall be maintained from levies in terms of subclause (3) hereof.

(2) Within two weeks of an employee entering the Industry he may, at the discretion of the Management Committee, be required to present himself to one of the Fund's medical officers for a medical examination and shall complete forms giving his past medical history. The Management Committee referred to in subclause (6) (a) may thereafter exclude such employee from receiving benefits for any illness due to chronic ailment: Provided that an employee may appeal against such exclusion to the Council whose decision shall be final.

(3) Subject to subclause (14), an employer shall deduct 1,5% per week of the employee wage rate prescribed in clause 4 (1) of the Clothing Industry (Natal) Main Agreement of each employee who has worked during any week irrespective of the time so worked.

(4) To the amount so deducted, the employer shall add a like amount and forward this month by month so as to reach the Secretary of the Fund, P.O. Box 18354, Dalbridge, 4014, not later than 10 days after the end of each calendar month, the total sum together with a list showing the council registration numbers of the employees and the amounts.

(5) The fund shall be applied to provide employees with medical treatment, medicine and sick pay in case of illness.

(6) (a) The Fund shall be administered by a Management Committee consisting of one representative each from the employers and employees appointed by the Council, together with the Chairman and Vice-Chairman of the Council, who shall be *ex officio* members of the Management Committee, who may make regulations not inconsistent with the provisions of this clause.

(b) For each representative an alternative shall be appointed.

(c) All the decisions of the Management Committee shall be subject to ratification by the Council.

(7) For the purpose of benefits, sickness shall mean any illness, affliction or disease including pregnancy of employees who are eligible for maternity benefits in terms of the Unemployment Insurance Act, 1966, but excluding—

(a) venereal disease and illness, affliction or disease which is attributable to misconduct or excessive indulgence in intoxicating liquors or drugs; and

(b) any accident, illness or disease in respect of which compensation is payable in terms of the Compensation for Occupational Injuries and Diseases, 1993.

(8) (a) Payment of benefits shall be subject to the production of a certificate of absence from work to which shall be attached a medical certificate signed by one of the Fund's medical officers.

(b) The Management Committee has the right to require the claimant for benefits to submit himself to such of the fund's medical officers as it may direct.

(c) Every employer shall complete a certificate of absence from work for each employee who has been off from work through illness and who has produced a medical certificate from a hospital, or a medical officer of the Fund. The employer shall forward such absence from work certificate together with the medical certificate to the Secretary of the Council, P.O. Box 18354, Dalbridge, 4014.

(9) An employee who has contributed to the Fund for 13 weeks shall, subject to the provisions of subclause (7) and (8) hereof, be entitled to the following benefits during the currency of this Agreement: Provided that the amount standing to the credit of the fund is not less than R200:

(a) Free medical attention (excluding surgical treatment and maternity cases, save where these are approved in whole or in part by the Management Committee, and venereal diseases) by the medical officer(s) appointed by the Management Committee.

(b) Free medicine when prescribed by the Fund's medical officer(s): Provided that such are made up by a chemist(s) specified by the Management Committee, or the Sick Benefit Fund Clinic.

- (c) In any one calendar year, sick pay equal to half a day's wage prescribed in clause 4 for each day of absence from work through illness to a maximum of forty (40) days' absence. Provided that a member shall not be entitled to any sick pay whatsoever in respect of a period of absence of two days or less unless they constitute the first two days of a period of not less than three continuous days' absence, in which case such members shall receive for a period of absence which is limited to three days, one day sick pay. No claim for sick pay shall be recognised if lodged after the expiry of six calendar months, calculated from the date of fitness for work indicated on the medical certificate. In cases of permanent unfitness, the period of six months shall be calculated from the last day in respect of which sick pay is due.
- (d) "Contributors become unemployed shall remain eligible for membership of the fund, and, while unemployed, shall be entitled to the benefits prescribed in paragraph (a) and (b) for the following periods:

	<i>Weeks</i>
Those with one year but not exceeding two years' service	6
Those with more than two years but not exceeding five years' service	12
Those with more than five years but not exceeding ten years' service	18
Those with more than ten years' service in each cycle of one year	24

- (e) Should a contributor's period of unemployment exceed that specified in paragraph (d) he shall be required to be employed in the Clothing Industry and contribute to the Fund for a further period of 13 weeks after restarting in the Industry before again becoming eligible for benefits.

(10) An member who was employed within the Clothing Industry, Natal, for at least 20 years and whose employment was terminated due to ill health or old age shall be entitled to receive medical service upon payment of a R5,00 user charge due to the fund, until the member reaches the age of 65 years.

(11) In the event of the expiry of this Agreement by effluxion of time or cession or any other cause, the Fund shall continue to be administered by the Management Committee until it be either liquidated or transferred by the Council to any other Fund constituted for the same purpose as that for which the original Fund was created: Provided that the fund shall be liquidated unless an agreement providing for the continuation of the Fund or for the transfer of its moneys as aforesaid, is entered into within 12 months of the date of expiry of this Agreement.

(12) In the event of the dissolution of the Council or in the event of its ceasing to function during any period in which this Agreement is binding, the Management Committee shall continue to administer the Fund and the members of the Committee existing at the date on which the Council ceases to function or is dissolved shall be deemed to be members thereof for such purposes: Provided, however, that any vacancy occurring on the Committee may be filled by the Registrar of Labour Relations from employers or employees in the Industry, as the case may be, so as to ensure an equality of employer and employee representatives and of alternatives in the membership of the Committee. In the event of such Committee being unable or unwilling to discharge its duties or a deadlock arising thereon which renders the administration of the Fund impracticable or undesirable in the opinion of the Registrar, he may appoint a trustee or trustees to carry out the duties of the Committee and who shall possess all the powers of the Committee for such purpose. In the event of no Council being in existence the Fund shall upon the expiry of this agreement be liquidated by the Committee or the trustee, as the case may be, in the manner set forth in subclause (11) of this clause, and if upon such expiry the affairs of the Council have already been wound up and its assets distributed, the balance of the Fund as if it formed part of the general funds of the Council.

(13) Upon liquidation of the Fund in terms of subclause (11) the moneys remaining to the credit of the Fund after the payment of all claims against the Fund, including administration and liquidation expenses, shall be paid into the general funds of the Council.

(14) The Management Committee shall have the right to exclude from all the provisions of this clause any employee who, in its opinion, has abused the privileges of the Fund: Provided that an employee may appeal against such exclusion to the Council whose decision shall be final.

36. RETRENCHMENT

(1) For the purposes of this clause "retrenchment" shall mean the dismissal of an employee for reasons based on the employer's operational requirements.

(2) The employer shall endeavour to avoid retrenchments by transferring workers to other departments, by training or retraining, by limiting and/or eliminating overtime, working short-time, allowing voluntary retirement and such other suitable alternatives.

(3) The employer shall furnish Council and the Union with the following information:

- (a) The reasons for the proposed retrenchments;
- (b) approximate number of employees to be retrenched and the job categories in which they are employed;
- (c) the proposed method for selecting which employees to dismiss;
- (d) the date when the dismissals are likely to take effect;
- (e) the severance pay proposed.

(4) The employer shall consult with the Union on the need and extent of the proposed retrenchment and the fairness of selection of employees to be retrenched:

(a) An employer must pay an employee who is retrenched severance pay equal to one weeks wage for each completed year of continuous service with that employer, unless the employer has been exempted from the provisions of subclause.

(b) An employee who unreasonably refused to accept the employer's offer of alternative employment with that employer or any other employer is not entitled to severance pay in terms of paragraph (a) above.

(5) (a) The employer shall give the Council and the Union at least 21 days written notice provided that the Union and the employer may reduce the period of notice by mutual agreement which agreement shall not be unreasonably withheld.

(b) The notice shall not run concurrently with the Annual Shutdown period of the employer's establishment.

(6) Where an employer has retrenched employees he shall, if he subsequently engages additional employees, as far as is possible, give preference to the reengagement of those employees who were retrenched from his establishment within the previous 6 (six) months.

37. FINANCIAL MATTERS

(1) The Council shall, in accordance with the standards of generally accepted accounting practice, principles and procedures—

(a) keep books and records of the income, expenditure, assets and liabilities of the Funds referred to in clauses 14 (3) (a), 15 and 35 and of the Council;

(b) within six (6) months after the end of each financial year, prepare financial statements including—

(i) a statement of income and expenditure for the previous financial year; and

(ii) a balance sheet showing its assets, liabilities and financial positions as at the end of the previous financial year.

(2) (a) The Council shall arrange for an annual audit of the books and records of account and the financial statements of the funds referred to in clauses 14 (3) (a), 15 and 35 and of the Council;

(b) the auditor appointed by the Council shall—

(i) be registered to practice in the Republic of South Africa as a public accountant and auditor;

(ii) conduct the audit in accordance with generally accepted auditing standards; and

(iii) report in writing to the Council: Which report shall include the auditor's opinion as to whether or not the Council has complied with those provisions of its constitution related to financial matters.

(3) The financial statements and auditor's reports shall be—

(a) available to the parties to the Council or their representatives for inspection;

(b) submitted to a meeting of the Council;

(c) provided to the Registrar of labour relations within thirty (30) days of receipt of the auditor's report.

(4) All monies referred by the funds referred to in clause 14 (3) (a), 15 and 35 shall be deposited into a banking account opened in the name of the Fund. Withdrawals from the Fund shall be by cheque signed by a person duly authorised by the Council.

(5) The money of any Fund referred to in clauses 14 (3) (a), 15 and 35 that is surplus to that Fund's requirements or the expenses of the Fund may be invested in—

(a) savings accounts, permanent shares or fixed deposits in any registered bank or financial institution;

(b) a registered unit trust;

(c) internal registered stock as contemplated in section 21 of the Exchequer Act, 1975; and

(d) any other manner approved by the Registrar of labour relations.

(6) All expenses of administration, banking and auditing shall be a charge against that Fund.

38. DISPUTE PROCEDURES

(1) **Referral and conciliation of disputes:**

(a) Any dispute about the interpretation or application of this Agreement must be resolved as follows:

(i) Any of the parties to the dispute may refer the dispute in writing to the Council, setting out the nature of the dispute and the outcome sought;

(ii) the party who refers the dispute to the Council must satisfy the Council that a copy of the referral has been served on all other parties to the dispute;

(iii) the Secretary or other designated official must appoint a member of the panel of conciliators and/or refer the dispute to the Council's Dispute Committee who must attempt to resolve the dispute through conciliation within thirty (30) days from the date of the Council receiving the written referral of the dispute, or any extended period as agreed to in writing by the parties to the dispute.

- (b) The Conciliator or Dispute Committee may, during conciliation proceedings—
 - (i) mediate the dispute; and
 - (ii) conduct a fact finding exercise.
- (c) In the conciliation proceedings a party to the dispute may appear in person or be represented only by a member, office bearer or official of that party's trade union or employers' organisation and, if the party is a juristic person, by a director or an employee.
- (d) The Conciliator or Dispute Committee may, upon conciliating the dispute, make a non-binding advisory arbitration award, provided that any such advisory award made by the Dispute Committee shall be by a unanimous decision of the Committee.
- (e) At the end of the thirty (30) day period, referred to in subclause 1 (a) (iii) above or any further period agreed to in writing by the parties to the dispute, the Secretary or other designated official of the Council must issue a certificate stating whether or not the dispute has been resolved.
- (f) Nothing in this clause prevents an officer or an employee of the Council from investigating the dispute or attempting to conciliate the dispute before the appointment of a conciliator and/or the referral to the Dispute Committee for conciliation.

(2) **Adjudication of disputes referred to the Council for arbitration:**

- (a) If the dispute remains unresolved after conciliation, any party to the dispute may request that the dispute be resolved through arbitration.
- (b) Upon receipt of a written request for arbitration from a party to the dispute, the Secretary or other designated official of the Council must appoint a member of the panel of arbitrators to arbitrate the dispute.
- (c) An employee of the Council shall be eligible for appointment to the panel of arbitrators provided that, should the Council have an interest in the dispute to be arbitrated, employees of the Council will not be eligible to arbitrate the dispute.
- (d) Arbitrators serving on the panel shall be allocated to arbitrate matters on a rotational basis, unless the parties to the dispute agree upon an arbitrator from the panel, with the next available arbitrator being appointed should any panel member(s) not be available in terms of such rotation.
- (e) The arbitrator, in consultation with the parties to the dispute, must decide the date, time and venue of the arbitration: Provided that, unless the parties agree to an extension or the circumstances warrant it, the date of the arbitration shall be within fourteen (14) days of the referral to arbitration.
- (f) Any party who has a legal interest in the outcome of the arbitration shall have the right to—
 - (i) give evidence;
 - (ii) call witnesses;
 - (iii) question the witnesses or any other party;
 - (iv) address concluding arguments to the arbitrator;
 - (v) be represented by a legal practitioner, or an office bearer or official of his trade union or employers' organisation and, if the party is a juristic person, by a director or employee thereof.
- (g) The arbitrator may conduct the arbitration in a manner that he considers appropriate in order to determine the dispute fairly and quickly, but must deal with the substantial merits of the dispute with the minimum of legal formalities.
- (h) The arbitration proceedings must be conducted in accordance with the provisions of section 138 and 142 and, if applicable, section 139, 140 and 141, of the Act, read with the changes required by the context.
- (i) An award made by the arbitrator is final and binding on the parties to the dispute.
- (j) The arbitrator has the power to make an Order as to costs in the following circumstances:
 - (i) Where he deems appropriate;
 - (ii) where the Act provides for such an Order to be made; or
 - (iii) for the Council to recover its costs of providing the arbitration service;

Provided that where a conciliator or the Dispute Committee has made a non-binding advisory arbitration award which is substantially the same as the award of the arbitrator, the arbitrator shall make a costs order against the relevant disputing party which shall, as a minimum, cover the Council's costs of dealing with the dispute.
- (k) The Secretary of the Council may apply to make the arbitration award an Order of Court in terms of section 158 (1) of the Act.

(3) **Compliance procedure—enforcement:**

- (a) The Council shall take all reasonable steps necessary to ensure compliance with this Agreement. If, whether through its own investigations or through any other source, it appears that the provisions of this Agreement may have been breached, then the following procedures shall apply to enforce compliance:
 - (i) The Secretary shall appoint a designated agent to investigate the alleged breach;
 - (ii) if, upon completion of the investigation, the designated agent has reason to believe that an agreement has been breached, the agent may endeavour to secure compliance with the agreement through conciliation;

- (iii) at the end of the conciliation process, the designated agent shall submit a report to the Secretary as to the result of the investigation, the steps taken to secure compliance through conciliation and the outcome thereof;
- (iv) upon receipt of the report, the Secretary of the Council in question may—
 - (aa) require the designated agent to undertake further investigations; or
 - (bb) refer the matter to arbitration and require the arbitrator to hear and determine the alleged breach of the agreement, in which case the terms of subclause (2) above will apply to the arbitration, read with the necessary changes required by the context; or
 - (cc) take such other steps as he deem reasonable.

39. TRAINING FUND

(1) The Council having been advised of the establishment of the Clothing Industry Training Board (inaugurated by the National Clothing Federation of South Africa and hereinafter referred to as the "Training Board") hereby authorises for the purpose of implementing the objects set forth in the Rules of the said Training Board the collection of contributions in accordance with the Procedure detailed in this clause.

(2) Subject to the provisions of subclause (3) every employer shall not later than the 10th day of each month forward to the Secretary of the Council, together with a statement in the form specified by the Training Board, a contribution to the Training Board of 0,5% per week of the qualified Grade 1 employee rate prescribed in clause 4 (1) of this Agreement.

(3) No payment shall be made in respect of an employee for any week in which he is employed for less than eight hours.

(4) The total amount of contributions collected by the Council in accordance with the provisions of subclause (2) shall be paid to the Training Board, P.O. Box 226, Salt River, 7925, not later than the 15th day of the month following that during which the contributions are received.

(5) Copies of the Rules of the Training Board shall be lodged with the Council and with the Director-General: Labour. For the purposes of this subclause the term "Rules" shall include any amendments to the rules adopted from time to time.

Signed at Durban, on behalf of the parties, on this 3rd day of September 1998.

R. M. CALDER

Chairman

G. KOLOKO

Vice-Chairman

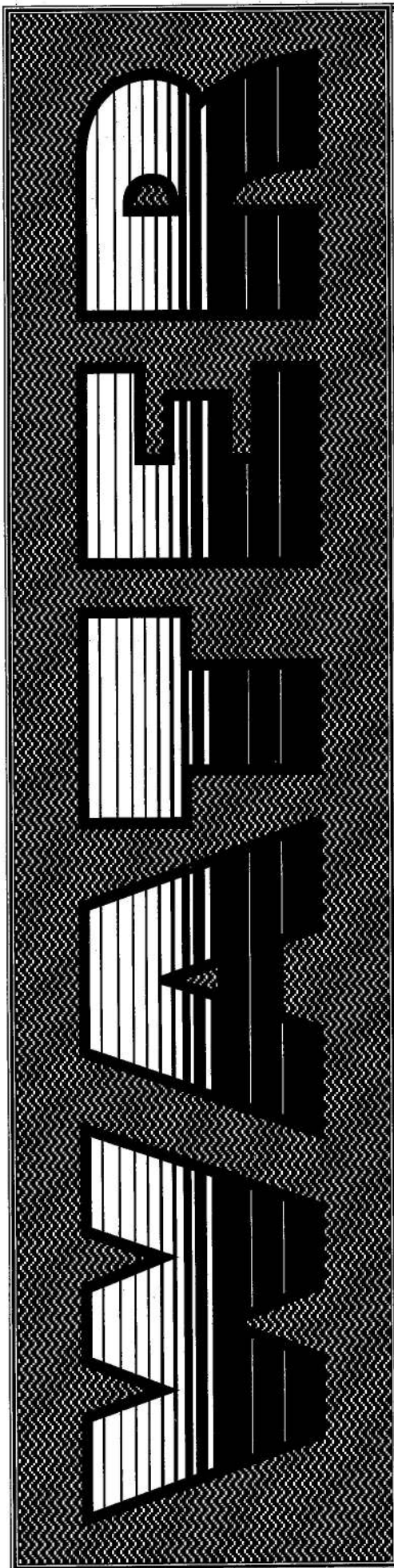
L. E. SMART

Acting Secretary

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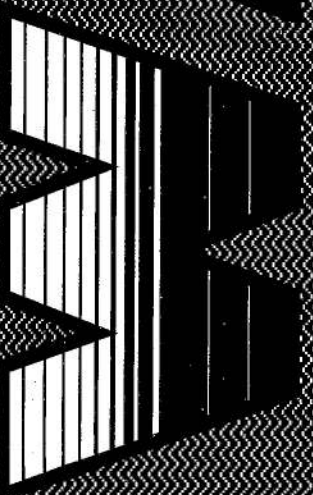
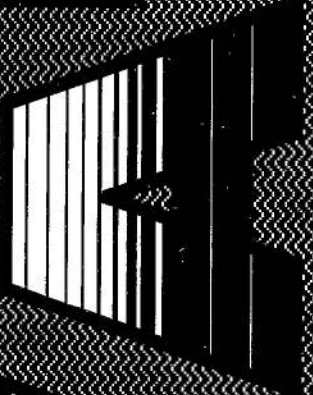
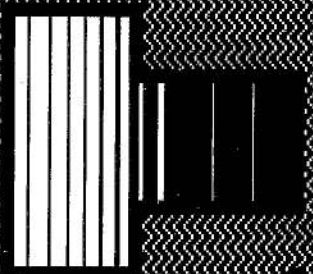
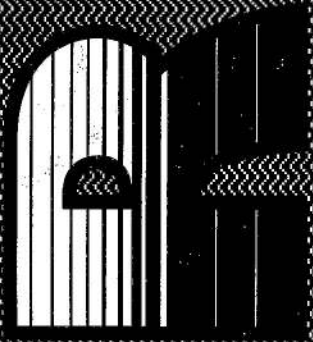


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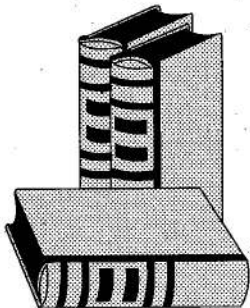
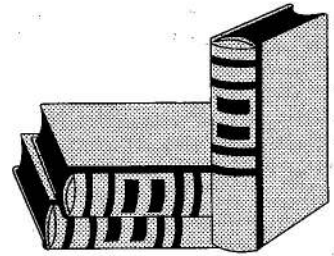
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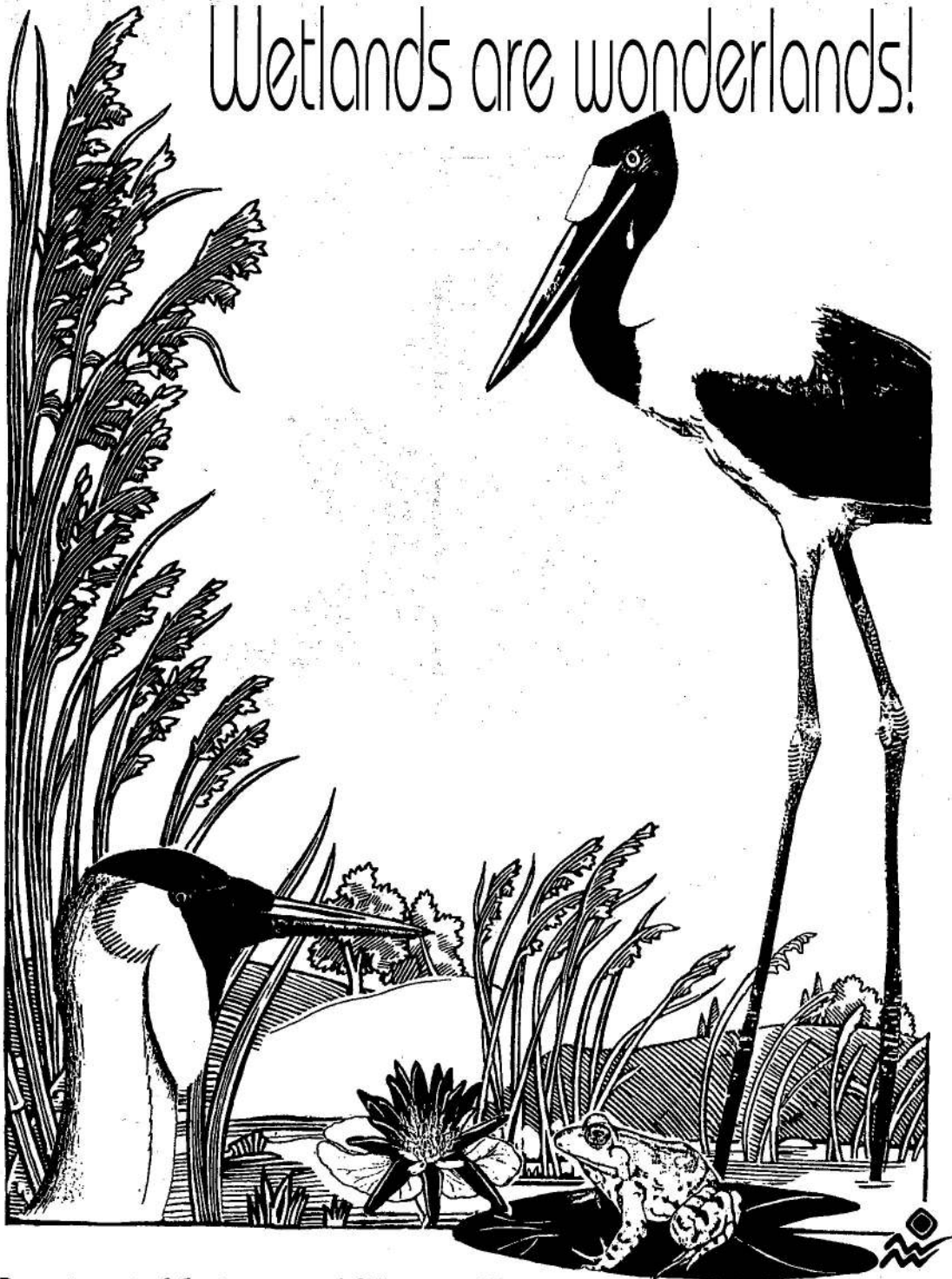
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