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## GOVERNMENT NOTICES GOEWERMENTSKENNISGEWINGS

### DEPARTMENT OF LABOUR DEPARTEMENT VAN ARBEID

**No. R. 1524**

**27 November 1998**

LABOUR RELATIONS ACT, 1995

#### **ELECTRICAL CONTRACTING AND SERVICING INDUSTRY (CAPE): EXTENSION OF COLLECTIVE AGREEMENT FOR THE ELECTRICAL CONTRACTING SECTION 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 Electrical Contracting and Servicing Industry (Cape) 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 for the period ending 31 January 2000.

**M. M. S. MDLADLANA**

Minister of Labour

**No. R. 1524**

**27 November 1998**

WET OP ARBEIDSVERHOUDINGE, 1995

#### **ELEKTROTEGNIËSE AANNEMINGS- EN BEDIENINGSNYWERHEID (KAAP): UITBREIDING VAN KOLLEKTIEWE OOREENKOMS VIR DIE ELEKTROTEGNIËSE AANNEMINGSEKSIE 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 Bedingingsraad vir die Elektrotegniese Aannemings- en Bedieningsnywerheid (Kaap) 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 31 Januarie 2000 eindig.

**M. M. S. MDLADLANA**

Minister van Arbeid

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

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### SCHEDULE

#### BARGAINING COUNCIL FOR THE ELECTRICAL CONTRACTING AND SERVICING INDUSTRY (CAPE)

##### COLLECTIVE AGREEMENT FOR THE ELECTRICAL CONTRACTING SECTION

in accordance with the provisions of the Labour Relations Act, 1995, made and entered into by and between the

##### Electrical Contractors' Association (South Africa)

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

##### National Employees' Trade Union

##### Metal and Electrical Workers' Union of South Africa

and

##### South African Electrical Workers' Association

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

being the parties to the Bargaining Council for the Electrical Contracting and Servicing Industry (Cape).

### PART I

#### 1. SCOPE OF APPLICATION

- (1) The terms of this agreement shall be observed in the Electrical Contracting and Servicing Industry (Cape)—
  - (a) by all employers and employees who are members of the employers' organisation and the trade unions, respectively;
  - (b) in the Magisterial Districts of The Cape, Wynberg (including that portion of the Magisterial District of Somerset West which, prior to 9 March 1973 (Government Notice No. 173 of 9 February 1973), fell within the Magisterial District of Wynberg), Simonstown, Goodwood and Bellville; in those portions of the Magisterial Districts of Malmesbury and Stellenbosch which, prior to the publication of Government Notices Nos. 171 of 8 February 1957 and 283 of 2 March 1962, respectively, fell within the Magisterial District of Bellville and in that portion of the Magisterial District of Kuils River which, prior to the publication of Government Notice No. 661 of 19 April 1974, fell within the Magisterial District of Stellenbosch but which, prior to 2 March 1962, fell within the Magisterial District of Bellville and in that portion of the Magisterial District of Kuils River which, prior to the publication of Government Notice No. 1683 of 7 August 1987, fell within the Magisterial District of Bellville.

(2) Notwithstanding the provisions of subclause (1) the terms of this agreement shall apply to apprentices and trainees only in so far as they are not inconsistent with the provisions of the Manpower Training Act, 1981, or any conditions prescribed or any notice served in terms thereof.

(3) For the purposes of this Agreement, the "weekly wage rate" of apprentices prescribed under the Manpower Training Act, 1981, shall be taken to be the weekly wage of such employees, and the "hourly rate" shall be the weekly wage calculated as above, divided by the number of ordinary hours worked in the establishment concerned.

(4) Clauses 1 (1) (a), 2, 5, 20 (1) (d), 22 (3), 25 (2) and (3), 34 (8) and 46 of this agreement shall not apply to employers and employees who are not members of the employers organisation and trade unions respectively.

## 2. PERIOD OF OPERATION

This agreement shall come into operation on such date fixed by the Minister of Labour in terms of section 32 of the Labour Relations Act, 1995, and shall remain force until 31 January 2000.

## 3. INDUSTRIAL ACTION

No person bound by the provisions of this collective agreement shall engage in or participate in a strike or lockout or any conduct in furtherance of a strike or lockout in respect of any matter regulated by this Agreement for its duration.

## 4. DEFINITIONS

Any expressions used in this Agreement which are defined in the Labour Relations Act, 1995, shall have the same meaning as in that Act, and any reference to an Act shall include any amendments to such Act; further, unless inconsistent with the context—

**“abscond”** means absence from work by an employee for a period in excess of five consecutive working days without informing or notifying the employer of the reasons therefor, or an employee deserting his employment for reasons unknown to the employer;

**“Act”** means the Labour Relations Act, 1995;

**“apprentice”** means an employee serving under a written contract of apprenticeship registered with the Electrical Contracting Industries Training Board;

**“artisan”** means an employee who has completed his training in terms of the Manpower Training Act, 1981, or is in possession of a certificate issued by the Electrical Contracting Industries Training Board recognising that he has received training sufficient to entitle him to work as an artisan in the Industry;

**“certificate”** means a certificate of registration issued in terms of regulation 9 (2) of the Electrical Installation Regulations, 1992;

**“civil disorder”** means the concerted action of a number of people, not employed by the employer, to disrupt, for any purpose whatsoever, the normal activities of the employer at his place of business or any worksite, or to prevent employees either from reaching such place of business or worksite or from commencing or continuing to work;

**“Council”** means the Bargaining Council for the Electrical Contracting and Servicing Industry (Cape);

**“driver”** means an employee engaged in driving a mechanical vehicle on a public road and who is in possession of a valid driver's licence issued under any road traffic ordinance;

**“Electrical Construction Operator, Level 1”** (hereinafter referred to as an “Elconop 1”) means an employee who has received on the job training by the employer and who undertakes any of the following tasks and may use the tools necessary to perform such tasks:

- (a) Bending conduit;
- (b) cutting conduit to marks, and the threading and reaming thereof;
- (c) attaching empty conduit accessories and trays to conduit;
- (d) installing and fixing wireways;
- (e) installing armoured and unarmoured surface cable, but excluding the connection thereof;
- (f) fitting glands to PVC cables, but excluding glands that require epoxy or similar filling;
- (g) laying cables in trenches, ducts and racks, including securing such cables;
- (h) operating a trenching machine;
- (i) the work of a labourer;
- (j) assisting a Master installation electrician, an installation electrician, an electrical tester for single phase, an electrician and an Elconop 2 and 3, but not performing any work individually except as set out in (a) to (i) above;

**“Electrical Construction Operator, Level 2”** (hereinafter referred to as an “Elconop 2”) means an employee who—

has undergone training recognised by the Council for an Elconop 1 employee, is in possession of proof of proficiency, and has undergone the prescribed training for an Elconop 2 employee at an institutionalised training centre recognised by the Council and successfully passed the examination to entitle such employee to be employed as an Elconop 2 employee in the Industry; and who may be engaged in any or all of the following tasks, and may use the tools necessary to perform such tasks: Provided that such tasks are carried out only on new installations, or on major renovations or structures or buildings from which the power has been disconnected from the main supply, and are carried out under the supervision of a master installation electrician, installation electrician, electrician, electrical tester for single phase or artisan:

- (a) Cleating, including placing wires in cleats, provided there is no tensioning;
- (b) placing or drawing conductors in wireways;
- (c) erecting lurginaries, including the connection thereof;



- (d) installing light switches, socket outlets, cooker and water disconnectors, including the connection thereof;
- (e) installing systemised and/or innovated electrical installations, which means predesigned wiring systems entailing work of a repetitive nature of which the components have been prepared to the length and sizes required, and includes the connection of accessories thereto: Provided that such employee may not connect the distribution board;
- (f) simple arc and gas welding;
- (g) the work of a labourer or Elconop 1 employee;

**"Electrical Construction Operator, Level 3"** (hereinafter referred to as an "Elconop 3") means an employee who has been employed in the Industry as an Elconop 2 for a continuous period of at least 12 months and who has received training recognised by the Council and successfully passed the appropriate examination to entitle such employee to be employed as an Elconop 3 employee in the Industry, or who is in possession of a certificate issued by the Council recognising him as an Elconop 3 employee;

**"electrical contractor"** means a person who is currently registered with the Electrical Contracting Board of South Africa as an electrical contractor and who undertakes to perform electrical installation work and/or the verification and certification of the construction, testing and inspection of electrical installations on behalf of any other person, but excludes an employee of such first-mentioned person;

**"Electrical Contracting Board of South Africa"** means the board established by organisations involved in the Electrical Contracting Industry, with the address PO Box 9683, Edenglen, 1613;

**"Electrical Contracting and Servicing Industry (Cape)"** or **"Industry"**, means, without in any way limiting the ordinary meaning of the expression, the industry in which employers and their employees are associated for any or all of the following:

- (a) The design, preparation, erection, installation, repair and maintenance of all electrical equipment forming an integral and permanent part of buildings or structures, including any wiring, cable jointing and laying, and electrical overhead line construction, and all other operations incidental thereto, whether the work is performed or the material is prepared on the site of the buildings or structures or elsewhere;
- (b) the design, preparation, erection, installation, repair and maintenance of all electrical equipment incidental to the purpose for which a building or structure is used, including any wiring, cable jointing and laying, and electrical overhead line construction, and all other operations incidental thereto, whether the work is performed or the material is prepared on the site of the buildings or structures or elsewhere;
- (c) the design, preparation, erection, installation, repair and maintenance of all electrical equipment incidental to the construction, alteration, repair and maintenance of buildings or structures, including any wiring, cable jointing and laying, and electrical overhead line construction, and all other operations incidental thereto, whether the work is performed or the material is prepared on the site of the buildings or structures or elsewhere;
- (d) the design, preparation, erection installation, repair and maintenance of electrical equipment not covered by (a), (b) or (c) above, including any wiring, cable jointing and laying, and electrical overhead line construction, and all other operations incidental thereto, whether the work is performed or the material is prepared on the site of the buildings or structures or elsewhere.

For the purposes of this definition—

- (i) **"electrical equipment"** includes—

- (aa) electrical cables and overhead lines;
- (ab) generators, motors, converters, switch and control gear (including relays, contactors, electrical instruments and equipment associated therewith), electrical lighting, heating, cooking, refrigeration and cooling equipment, primary and secondary cells and batteries, transformers, furnace equipment, radio sets and allied electrical apparatus, signalling equipment and other equipment utilising the principles used in the operation of radio or electronic equipment;

- (ii) **"design preparation, erection, installation, repair and maintenance"** does not include—

- (aa) the manufacture and/or assembly of the aforementioned equipment or component parts thereof;
- (ab) the wiring or installation in motor vehicles of lighting, heating or other equipment or fixtures, whether permanent or otherwise;
- (ac) the manufacture, repair and servicing of motor vehicle batteries;
- (ad) the manufacture, repair and servicing of typewriter and office appliances;
- (ae) the manufacture and/or assembly and/or installation and/or repair and/or maintenance of lifts and/or escalators;

**"electrical installation"** means any machinery in or on any premises used for the transmission of electricity from a point of control to a point of consumption anywhere on the premises, including any article forming part of such an installation, irrespective of whether or not it is part of the electrical circuit, but excluding—

- (a) any machinery of the supplier related to the supply of electricity on the premises;
- (b) any machinery used for the transmission of electricity of which the voltage shall not exceed 50 V where such electricity is not derived from the main supply of a supplier;
- (c) any machinery that transmits electrical energy in telecommunication, television or radio circuits;
- (d) any electrical installation on a vehicle, vessel, train or aircraft;

**"electrical tester for single phase"** means a person who has been registered as an electrical tester for single phase in terms of regulation 9 of the Electrical Installation Regulations, 1992, published under the Occupational Health and Safety Act, 1983, and who has been approved by the chief inspector for the verification and certification of the construction, testing and inspection of electrical installations supplied by a single phase of electricity supply;

**"electrical wiring"** means the design, installation, alteration, repair or testing of any cable, conductor, fitting, apparatus or conduit used or intended to be used for purposes integral or incidental to the supply and/or consumption of electricity;

**"electrician"** means an employee who has completed an apprenticeship in terms of the Manpower Training Act, 1981, in a trade relevant to the Industry, or who has received training recognised by the Council as being sufficient to entitle him to work as an electrician in the Industry;

**"employee"** means any person employed on any of the classes of work scheduled in this agreement and includes a person employed under a contract of apprenticeship recognised by the Council;

**"employer"** means any person who employs or provides work for any person and remunerates or expressly or tacitly undertakes to remunerate him or who permits any person in any manner to assist him in the carrying on or conducting of his business, and shall include a temporary employment service as defined in section 198 of the Act;

**"establishment"** means a place where the employer normally carries on his business and where his wage records are kept;

**"foreman"** means an electrician or artisan who has been appointed by his employer to supervise work scheduled in this agreement: Provided that such employee may also be required to undertake electrical installation work himself if so required by his employer;

**"installation electrician"** means a person registered as an installation electrician in terms of regulation 9 of the Electrical Installation Regulations, 1992, published under the Occupational Health and Safety Act, 1983, who has been approved by the chief inspector for the verification and certification of the construction, testing and inspection of any electrical installation, excluding specialised electrical installations;

**"labourer"** means an employee who is engaged in any or all of the following tasks:

- (a) Loading or unloading materials;
- (b) digging holes in trenches, planting poles and laying cables in trenches;
- (c) stripping redundant installations and equipment incidental thereto from which the supply cables have been removed;
- (d) chasing and cutting walls and concrete floors for conduit;
- (e) making refreshments;
- (f) cleaning office and workshop areas;
- (g) assisting a master installation electrician, an installation electrician, an electrical tester for single phase, an electrician and an Elconop 1, 2, or 3, but not performing any work individually except as set out in (a) to (f) above: Provided that should an employee produce a certificate of service issued in terms of clause 30 of Part I of the agreement, or other evidence acceptable to the Council indicating that he was previously employed in the Industry as a labourer grade 1, under former agreements, or an Elconop 1, he shall be employed as not less than an Elconop 1.

**Note:** Employers shall supervise the training and the testing of labourers up to Elconop 1 employees;

**"lock-up"** means any vehicle shed, room, workshop, factory, or similar place, constructed of four walls and roof, composed of concrete, brickwork, wood, iron or any combination thereof, which can be securely locked, the whole to be so constructed as to provide a place of safe-keeping at any time of employees' tools and clothes and all other tools issued to them by the employer;

**"master installation electrician"** means a person who has been registered as a master installation electrician in terms of regulation 9 of the Electrical Installation Regulations, 1992, published under the Occupational Health and Safety Act, 1983, and who has been approved by the chief inspector for the verification and certification of the construction, testing and inspection of any electrical installation;

**"piece work"** means any system under which the minimum wage to which an employee is entitled is calculated solely on the quantity or output of work done, irrespective of the time spent on such work;

**"premises"** means any land and any building or structure, or part thereof, above or below the surface of any land, and includes any vehicle, aircraft or vessel;

**"public holiday"** means any public holiday as determined in the Public Holidays Act, 1994;

**"remuneration"** means any payment in money arising out of the terms of this Agreement, made or owing to any person, which arises in any manner whatsoever out of employment, and "remunerate" has a corresponding meaning;

**"retrenchment"** means a termination of employment as result of a shortage of work or the closure of the business;

**"shift"** means a working day;

**"specialised electrical installations"** means electrical installations in—

- (a) hazardous locations as contemplated in SABS 0108;
- (b) anaesthetizing and similar locations as contemplated in SABS 051;
- (c) explosive atmospheres as contemplated in SABS 086; or
- (d) the petroleum industry as contemplated in SABS 089;

**"specified formal training"** means a system of modular training accredited by the Electrical Contracting Industries Training Board to meet the requirements of the tasks to be performed by the category of employee and carried out in training centres accredited by the Electrical Contracting Industries Training Board;

**"suitable accommodation"** means a hotel, boarding house, caravan or other suitable accommodation (in the event of a dispute in regard to what is suitable accommodation the Council shall give a ruling);

**"temporary employment services"** means any person who, for reward, procures for or provides to a client other persons who render services to, or perform work for, the client, and who are remunerated by the temporary employment service;

**"trainee"** means a person undergoing training as an artisan in terms of the Manpower Training Act, 1981;

**"wage"** means the hourly rate prescribed in clause 4 of Part II of this agreement: Provided that where an employer regularly pays an employee an amount higher than that prescribed in the said clause, it shall mean such higher amount;

**"wireways"** means cable trays or any enclosed casing for containing wires, cables and busbars;

**"working day"** means any day other than Saturday, Sunday or a public holiday;

**"working employer"** means an employer or any partner in a partnership who does manual work in the industry, a sole proprietor, a working director or an employer who is engaged in any work scheduled in the agreement, and who shall be deemed to be an employee in respect of whom contributions are required to be made in terms of this Agreement, and if he is a partner, a certified copy of the deed of partnership shall be lodged with the Council.

## 5. LEVELS OF BARGAINING

The Council shall be the forum for negotiating all matters pertaining to this collective agreement.

## 6. DAYS AND HOURS OF WORK

- (1) (a) Subject to the provisions of clause 7, no employer shall require or permit any employee to work—
  - (i) for more than eight hours in any one day, Mondays to Fridays;
  - (ii) for more than five days in any one week, Mondays to Fridays;
  - (iii) on a Saturday, Sunday or public holiday;
  - (iv) before 08:00 or after 17:00;
  - (v) (aa) for more than five hours continuously without an uninterrupted interval of not less than one hour, during which interval the employee shall not be required or permitted to perform any work: Provided that an employer may agree with a majority of his employees to reduce the length of the intervals to not less than half an hour;
  - (ab) except as provided for in subclause (aa) or (ac) hereof, periods of work interrupted by intervals of less than one hour shall be deemed to be continuous;
  - (ac) when, by reason of any overtime worked, an employer is required to give an employee a second interval, such interval may be reduced to not less than 15 minutes.
- (b) Notwithstanding the provisions of subclause (1) (a), an employer may, by declaration to the Council, within one month of the date of coming into operation of this agreement, elect to change the hours of work and thereafter such employer shall not require or permit any employee to work—
  - (i) for more than nine hours in any one day;
  - (ii) for more than five days in any one week, Mondays to Fridays;
  - (iii) on a Saturday, Sunday or public holiday;
  - (iv) before 07:00 or after 17:00;
  - (v) for more than five hours continuously without an uninterrupted interval of not less than one hour, during which interval the employee shall not be required or permitted to perform any work: Provided that an employer may agree with a majority of his employees to reduce the length of the interval to not less than half an hour.



## 7. OVERTIME AND PAYMENT FOR WORK ON SUNDAYS AND PUBLIC HOLIDAYS

(1) Overtime shall be voluntary and any employee who works any time in excess of or outside the hours as specified in clause 6 shall be paid at the rate of—

- (a) one and a third times his hourly rate of wages for every hour or part of an hour, for the first three hours worked after ordinary hours of work on any day from Monday to Friday;
- (b) one and a half times his hourly rate of wages for every hour or part of an hour worked in excess of three hours of overtime, worked on any day from Monday to Friday and for every hour or part of an hour for all hours worked on a Saturday;
- (c) double his hourly rate of wages for every hour or part of an hour, for all hours worked on a Sunday;
- (d) for paid public holidays which falls on a day on which an employee would ordinarily work the amount that the employee would ordinarily have received for working on that day;
- (e) if an employee works on a paid public holiday which falls on a day on which an employee would ordinarily work in terms of clause 20 (1) (b) the employer shall pay the employee in terms of subclause (d) plus the amount earned by that employee for the actual time worked that day;
- (f) if an employee works on a public holiday on which the employee would not ordinarily work, the employer must pay that employee an amount equal to—
  - (i) the amount that employee would ordinarily earn for a full day of work; plus
  - (ii) the amount earned by that employee for the actual time worked that day.

(2) Notwithstanding the provisions of subclause (1) where in any one week an employee absents himself from work during any or all of the ordinary hours of work as specified in clause 6 hereof, such ordinary hours not worked by the employee shall be deducted from the hours of overtime worked, and the hours so deducted shall be paid for at the employee's ordinary rate: Provided that—

- (i) if the number of ordinary hours of work on which the employee is absent in any one week is in excess of the number of overtime hours worked, all such overtime hours shall be paid for at the employee's ordinary hourly rate;
- (ii) any overtime worked on a Saturday shall be deemed to be included for the purposes of this subclause; and
- (iii) where an employee is absent from work with the permission of his employer or absent on account of sickness or circumstances beyond his control, the provisions of this subclause shall not apply and the overtime hours worked in such case shall be paid for at the overtime rate applicable to the overtime hours worked: Provided that an employer may call on an employee for a medical certificate in proof of cause of absence.

(3) Any employee who is aggrieved by the application to him of any of the provisions of subclause (2) may appeal to the Council against the decision applied to him, and the Council may, after considering any reason that may be submitted for such decision, confirm that decision or give such other decision as in its opinion ought to have been given in such case.

## 8. TIME AND WAGE RECORD

An employer shall keep employee records as prescribed by section 31 of the Basic Conditions of Employment Act, 1997, and employees shall complete time sheets as required by the employer.

## 9. SHORT TIME

(1) (a) An employer may require his employees to work for a lesser number of hours than the ordinary hours of work of his establishment owing to a shortage of work and/or materials, in which case the employer shall give his employees two clear workings days' notice of his intention to work short time, and shall, so far as practicable, spread the work available among the employees affected. Where the employee is expressly required by the employer to report at the establishment on any one day for the purpose of ascertaining if work will be made available, he shall receive not less than four hours' work, or pay in lieu thereof, in respect of such day.

(b) If the employer advises the employee on the working day immediately preceding the day on which he is not required to attend, or in unforeseen contingencies and/or circumstances beyond the control of the employer in the event of the foregoing circumstances arising, the employer shall not be required to pay wages to his employees except for the periods actually worked:

Provided that where the employer believes that resumption of work can be effected and expressly instructs his employees to present themselves for employment on a particular day, they shall receive not less than four hour's work or pay in lieu thereof in respect of such day. Unforeseen contingencies and/or circumstances beyond the control of the employer referred to in this paragraph shall not include inclement weather, except as provided for in clause 10. The employer shall within seven days of commencement of working short time notify the Council thereof in writing.

(2) Short shifts worked while working short time shall count as shifts actually worked in order to qualify for the paid leave referred to in this Agreement.



#### 10. INCLEMENT WEATHER

If as a result of inclement weather conditions it is not possible to commence or continue with normal work, the employer may decide to discontinue work for that day. In the event of a decision being made to discontinue work on any day owing to inclement weather, an employee shall be paid as follows:

- (a) If work has been stopped within four hours of the start of the normal working day, he shall be paid a minimum of four hours at his normal rate of pay and allowances.
- (b) Subject to the provisions of (a) above, if less than five and a half hours have elapsed since the normal starting time in the establishment and work is then stopped, the employee shall be paid the full pay and allowances for time worked.
- (c) If more than five and a half hours have elapsed since the normal starting time and work is then stopped the employee shall be paid the full pay and allowances paid on a normal working day.

#### 11. CIVIL DISORDER

If, as a result of civil disorder, it is not possible to commence or continue with normal work, the employer may decide to discontinue work for that day. In the event of a decision being made to discontinue work on any day owing to such circumstances, an employee shall be paid as follows:

- (a) If work has been stopped within two hours of the start of the normal working day, he shall be paid a minimum of two hours at his normal rate of pay and allowances.
- (b) Subject to the provisions of (a) above, if more than two hours but less than five and a half hours have elapsed since the normal starting time in the establishment and the work is then stopped, the employee shall be paid the full pay and allowances for time worked.
- (c) If more than five and a half hours have elapsed since the normal starting time and work is then stopped, the employee shall be paid the full pay and allowances paid for a normal working day.

#### 12. PAYMENT OF REMUNERATION

(1) (a) Remuneration shall be paid weekly, fortnightly or monthly as mutually agreed upon by the employer and at least 66 per cent of his employees. The employer shall notify the Council of the arrangement made for the payment of remuneration within 30 days of agreement being reached.

(b) Where the services of an employee are terminated after the closure of the pay week, all remuneration due to him after that closure shall be payable not later than the pay day on which the remuneration would normally have been paid or not later than seven days after the termination of employment, whichever is the earlier: Provided that at the request of the employee such remuneration shall be forwarded to him, either in the form of a money order or a cheque, at an address provided by him.

(c) Every employee shall be given a statement of payment showing his total remuneration, ordinary time and overtime payments, and allowances and deductions.

(2) (a) Except as otherwise provided in this agreement, only the following deductions from remuneration may be made from the amounts payable to an employee in terms of this agreement:

- (i) For canteen services, where the deduction is authorised by stop-order terminable by the employee by giving not more than 27 days' notice of the termination of his agreement to such deduction being made.
- (ii) Where an employee is absent from work, including absence during any unpaid holiday granted in extension of the paid holidays provided for in this agreement, a pro rata amount for the period of such absence.
- (iii) With the written consent of the employee, deductions for insurance or any other funds approved by the Council.
- (iv) Contributions to the funds of the Council in terms of clause 28 of this Part of the Agreement.
- (v) Deductions of any amount which an employer is legally or by order of any competent court required or permitted to make.
- (vi) Where any employer, owing to a clerical, accounting or administrative error, or miscalculation, pays an employee remuneration in excess of the amount legally payable, the employer or subsequent employer shall be entitled to recover the amount of the overpayment by deduction from subsequent wages or earnings, but no one deduction may exceed 15 per cent of the employee's remuneration.
- (vii) Deductions for subscriptions to the trade union of which the employee is a member.
- (viii) Recovery of advances or loans as provided for in clause 3 (3) of part 11 of this Agreement.

(b) Notwithstanding the provisions of this clause relating to payment of remuneration, an employer may, by mutual arrangement with his employees, pay any amount due to an employee in terms of this agreement by cheque or to the credit of such employee with a bank, building society or registered deposit-receiving institution nominated by the employee, and such payment into a bank, building society or institution shall include all payments due to the employee.

(c) In the event of the employment of an employee terminating before the ordinary pay day applicable in his case, all payments due to the employee in terms of this agreement shall be paid in accordance with the relative requirements of this Agreement.

(d) Notwithstanding the provisions of clause 13 of this agreement relating to payment of leave pay, payment of leave shall be made in accordance with the provisions of this clause in the same manner as that in which the employee is paid his earnings.

(e) *Monthly-paid employees:* (i) Foremen whose duties require them to supervise other artisans and employees may, upon notification to the Council, be remunerated on the basis of a monthly salary, which shall be not less than the remuneration prescribed for an installation electrician in this Agreement for the number of hours per week, including overtime hours, permitted in terms of the Agreement.

(ii) All provisions of this Agreement shall be applicable to a monthly-paid employee, including payment at overtime rates for all time worked in excess of the hours specified in the letter of appointment or a certified copy thereof, which shall be lodged with the Council.

(iii) A monthly-paid employee who takes time off work with the permission of his employer shall be paid for such time off.

(3) Nothing in this Agreement shall operate to reduce the wage that was being paid to an employee immediately prior to, or to which any employee was entitled, at the date of the commencement of this Agreement while such employee is employed by the same employer. The provisions of this subclause shall also apply in the case of any employee whose services are terminated by such employer subsequent to the date of commencement of this Agreement and who is re-engaged by such employer within a period of 30 calendar days.

For the purposes hereof, "Agreement" shall include any amendment thereto.

### 13. ANNUAL LEAVE AND ANNUAL SHUTDOWN

(1) (a) (i) Every employee shall be entitled to three consecutive weeks (15 consecutive working days) leave, payable at his ordinary rate of wages, after each completed cycle of 235 completed working days with any employer in the Industry, exclusive of overtime.

(ii) The leave specified in this subclause shall become due immediately after the completion of the 235th completed working day with an employer and leave pay shall be paid before the employee proceeds on leave.

(iii) Where the employment of an employee is terminated before the completion of 235 completed working days with an employer, such employer shall pay to him a pro rata amount in accordance with the following formula:

$$\frac{\text{Number of completed working days with employer in present cycle}}{235} \times 15 \times \text{ordinary daily remuneration}$$

(iv) Where the employment of an employee is terminated after the completion of 235 completed working days with an employer but before the annual leave has been granted to him, his employer shall—

(aa) pay him the amount due in terms of subclause (i) hereof in respect of the period of leave that has accrued but was not granted before the date of termination of his employment; and

(ab) pay him an amount calculated in accordance with the formula in subclause (iii) in respect of the period of employment completed after the date on which he became entitled to leave in terms of subclause (i).

(v) Notwithstanding the provisions of this clause, no employee shall be entitled to leave pay unless he has completed 25 working days with the same employer.

(b) (i) Every employee shall be entitled to and shall take his leave so as to commence within a period of four months from the due date, unless exemption is granted by the Council.

(ii) The leave shall be granted by the employer so as to commence within a period of four months from the due date.

(iii) The leave specified in this subclause shall include four weekends and shall be for one unbroken period: Provided that the employee may, with the agreement of the employer, be permitted to take his leave in two periods, of which one is not less than 10 days.

(iv) Where a public holiday falls on what would otherwise be a normal working day, the leave period shall be extended by one day for each public holiday falling within such leave period.

(v) No employee shall engage in employment, whether for remuneration or not, during his leave period.

(vi) Any period during which an employee is off sick in excess of two working days and up to a maximum of 43 working days per annum shall count as part of the qualifying period for leave: Provided that where it is required by the employer, a medical certificate shall be produced. Periods of absence on account of an accident arising out of and in the course of an employee's employment shall count for leave purposes if such accident has been admitted as falling within the provisions of the Compensation for Occupational Injuries and Diseases Act, 1993.

(vii) Except as otherwise provided herein, employment for the purposes of this clause shall be deemed to commence from the date on which an employee enters the employer's service, or the date on which he last became entitled to the paid leave, whichever is the later, and shall include shifts that would normally have been worked during periods of absence on the additional week paid leave or accumulation thereof in terms of clause 14 (1) (a) of Part I of this Agreement.

(2) (a) Notwithstanding the provisions of subclause (1) of this clause, an employer may elect to observe an annual shutdown commencing in December of each year: Provided that he shall, prior to the date of the annual shutdown, pay to employees who have qualified for paid leave in terms of this agreement the full amount of the leave pay and leave bonus due to them, and to employees who have not qualified for full paid leave in terms of this Agreement, leave pay and leave bonus proportionate to the qualification for paid leave completed at the date of the annual shutdown.

(b) Nothing contained herein shall operate to preclude an employer from cancelling the annual shutdown: Provided that—

- (i) such cancellation has resulted from a change in the work schedule of the establishment; and
- (ii) notice of such cancellation is given prior to 1 October of that year.

(c) Notwithstanding any other provision of this agreement, an employee who has not qualified for leave pay or leave bonus at the date of the annual shutdown shall be paid proportionate leave pay and leave bonus as provided for in subclause (2) (a) above, irrespective of any qualifying period specified in this Agreement.

#### 14. ADDITIONAL PAID LEAVE

(1) (a) Every employee for whom wages are prescribed in this agreement shall be entitled to an additional one week's leave, payable at his ordinary rate of wages, on qualifying for his fifth and subsequent leave period with the same employer: Provided that the additional leave specified in this subclause shall be taken at a time mutually agreed on between employer and employee and shall also count as part of the qualifying period for his next leave.

(b) The leave specified in subclause (a) may be accumulated up to a maximum of five weeks.

(c) The employee may, by mutual agreement with the employer, take payment of lieu of the leave specified in subclause (a). In the event of the employer and employee failing to agree, the matter shall be referred to the Council for a decision, which shall be final.

(d) Where the services of an employee are terminated and such employee has accumulated leave in terms of subclause (b), the employer shall pay the employee in lieu of such accumulated leave.

(e) Any period of employment in the categories referred to in subclause (a) prior to the date of commencement of this agreement shall count towards the qualifying period in terms of subclause (a).

(f) An employee, shall not as a result of mergers or take-overs lose his qualification for the additional leave specified in subclause (a).

(2) Save as is otherwise provided herein, employment for the purposes of this clause shall be deemed to commence from the date on which an employee enters the employer's service or on the date on which he last became entitled to leave, whichever is the later.

#### 15. FAMILY RESPONSIBILITY LEAVE

(1) During each leave cycle, an employee shall be entitled to a period of three days' paid leave which may be taken—

- (a) when the employee's child is born;
- (b) in the event of the death of a member of the employee's immediate family.

(2) Before paying an employee for leave in terms of this clause, an employer may require reasonable proof of an event contemplated in subclause (1) for which the leave was taken.

(3) An employee's unused entitlement to leave in terms of this clause shall expire at the end of the leave cycle in which it accrues.

(4) For the purposes of this clause, an employee's "immediate family" means—

- (a) the employee's spouse or any other person who cohabits with the employee; and
- (b) the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.

#### 16. SHOP STEWARDS' LEAVE

An employee who is an office-bearer of a trade union shall be entitled to reasonable leave up to a maximum of five days' leave during working hours on full pay for the purpose of performing the functions of that office.

#### 17. PAID SICK LEAVE

(1) Whenever an employee is absent from work through sickness or injury (other than sickness or injury caused by his own misconduct) his employer shall grant him sick leave calculated as follows:

- (a) During the first 12 consecutive months of employment, not less than one working day in respect of each completed five weeks of employment with the employer;
- (b) in respect of continuous employment thereafter, not less than 10 working days in the aggregate during any succeeding period of 12 consecutive months of employment with the employer.



(2) An employer shall pay the employee for each day of absence as provided for in subclause (1) an amount of not less than the amount the employee would have received had he worked the ordinary hours of the shift for that day of the week: Provided that—

- (i) before making payment of any amount payable to an employee in terms of this subclause in respect of any period of absence from work of more than two consecutive days, the employer may require the employee to produce a medical certificate signed by a registered medical practitioner stating the nature and duration of the employee's illness or injury; and that
- (ii) if during any period of up to eight consecutive weeks the employee has received payments for sick leave as provided for in this subclause on two or more occasions without producing a medical certificate as aforesaid, the employer may require him to produce such medical certificate in respect of any period of absence from work on account of sickness or injury occurring within a period of eight weeks reckoned from the date of his last absence on sick leave; and that
- (iii) the employer may require the employee to produce a medical certificate in respect of any absence from work on the working day immediately preceding and/or succeeding a Sunday or any of the public holidays specified in this Agreement.

(3) Where an employer is by law required to pay fees for hospital or medical treatment in respect of an employee, and pays such fees in respect of any illness or injury referred to in this clause, the amount so paid may be set off against the payment for sick leave due in terms of this clause.

(4) The provisions of this clause shall not apply to employers and employees who are required to contribute to a sick pay fund specified in an Agreement for the Industry, or to employers and their employees who are participants in and members of a fund, organisation or scheme providing for paid sick leave on a basis that is not less favourable to the employee than that set out in the aforesaid Agreement and in respect of which exemption has been granted or is granted by the Council from the provisions of the aforesaid agreement, while such fund, organisation or scheme continues to operate and both the employer and the employee are participants therein.

(5) Notwithstanding any other provisions of this clause, no employee shall be entitled to paid sick leave—

- (a) in respect of such periods of absence from work for which compensation is payable under the Compensation for Occupational Injuries and Diseases Act, 1993;
- (b) in respect of paid public holidays as specified in this Agreement, or in respect of any part of the paid leave referred to in this Agreement.

(6) For the purposes of this clause, "employment" includes any period during which an employee—

- (a) is on paid leave or additional paid leave in terms of this Agreement;
- (b) is on paid sick leave in terms of this clause;
- (c) is absent from work on the instructions or at the request of his employer.

#### **18. INJURY ON DUTY ALLOWANCE**

Where an employer in terms of section 47 (3) of the Compensation for Occupational Injuries and Diseases Act, 1993, is of a reasonable belief that an employee absent from work resulting from an injury on duty will be compensated under that Act and in respect of which a claim has been made under the Act, the employer shall pay an amount to the employee equivalent to 75% of the employees' ordinary hourly rate for such absence up to a maximum period of three months from the date of the accident. The employer shall recover this payment from the Compensation Commissioner.

#### **19. EXTENSION OF INSURANCE COVER FOR INJURY ON DUTY**

Every employer shall either arrange with the Compensation Commissioner to extend and maintain the cover provided by the Compensation for Occupational Injuries and Diseases Act, 1993, to all his employees who fall within the provisions of this Agreement or, alternatively, take out and maintain an insurance policy to provide fixed benefits basically at least equivalent to those provided by the Compensation for Occupational Injuries and Diseases Act, 1993, in respect of his employees who fall within the provisions of this Agreement whose earnings exceed the earnings ceiling specified in the said Act.

#### **20. PAYMENT FOR PUBLIC HOLIDAYS**

(1) (a) An employee may agree with the employer to exchange a public holiday for any other day, and if so agreed shall not be entitled to any additional payment on such a public holiday.

(b) Every employee shall in respect of a public holiday be paid at his ordinary rate of wages and allowances for the number of hours he would have worked on a normal working day (excluding overtime).

(c) The payment prescribed in subclause (b) hereof shall be deemed to be full payment in respect of such public holiday, and subject to the provisions of clause 7 of Part I of the Agreement, no employee shall be entitled to further compensation in respect of such public holiday.



(d) Notwithstanding the provisions of subclauses (a), (b) and (c) hereof, an employee who is required by his employer to work on the working day immediately prior to and/or succeeding a public holiday and who absents himself on such working day(s) shall not be entitled to payment for such public holiday: Provided that an employee shall be entitled to payment for such public holiday where the employer has given permission for such absence, or has condoned such absence, or where the employee was sick and can produce a medical certificate to prove it if required by the employer, or where the public holiday falls during the period of the annual leave of the employee.

(e) Where an employer dismisses an employee and the employment is terminated within a period of five working days prior to a public holiday, such employer shall pay the employee in respect of the public holiday.

(2) Any employee who is aggrieved by the application to him of any of the provisions of subclause (1) (c) may appeal to the Council against the decision applied to him, and the Council may, after considering any reasons that may be submitted for such decision, confirm that decision, or give such other decision as in its opinion ought to have been given in such case.

## 21. RATIO OF CATEGORIES OF EMPLOYEES TO EACH OTHER AND RESPONSIBILITIES OF EMPLOYERS AND EMPLOYEES

(1) (a) The ratio of the maximum number of persons employed in the different categories by an employer to the number of skilled employees employed shall at no time exceed the following:

(i)			Number of skilled employees employed				
	Operative levels	1	2	3	4	5	
Elconop 3 .....	—	1	2	3	4		
Elconop 2 .....	1	2	3	4	No ratio		
Elconop 1/Labourer .....	4	7	No ratio	shall apply	shall apply		

(ii) Thereafter, for every additional skilled employee employed an employer may employ one additional Elconop 3.

(b) For the purposes of this subclause, the expression 'skilled employee' shall mean a master installation electrician, installation electrician, electrical tester for single phase, electrician, artisan and an apprentice who has qualified to undergo a trade test.

(2) *Responsibility:* No employer shall require or permit any Elconop 3, Elconop 2, Elconop 1 or labourer to perform any work other than that referred to in the definitions of Elconop 3, Elconop 2, Elconop 1 or labourer, respectively, and likewise no master installation electrician, installation electrician, electrical tester for single phase, electrician, artisan, Elconop 2, Elconop 3, apprentice or trainee shall allow or permit any Elconop 1 or labourer working under his control or supervision to perform any work other than that referred to in the definitions of Elconop 1 or labourer, respectively, in clause 4 of this Agreement.

## 22. TERMINATION OF EMPLOYMENT AND SEVERANCE PAY

(1) Not less than five clear working days' notice shall be given by the employer or the employee to terminate a contract of service, unless there is a mutual agreement between employer and employee for a different period: Provided that this shall not affect—

(i) the right of the employer or an employee to terminate a contract of service without notice for any good cause recognised by law as sufficient;

(ii) any agreement between an employer and an employee providing for a longer period of notice than five clear working days: Provided further that an employer may pay an employee wages for an in lieu of the specified or agreed period of notice.

(2) Whenever the contract of service is terminable by five clear working days' notice and the employee fails to give the notice or to work such notice period, the employer may deduct the wages for the notice period concerned. Should the employer fail to give the notice or to allow the employee to work such notice period, the employee shall receive wages for the notice period concerned.

(3) Whenever an employee is retrenched he shall be paid, in addition to any other moneys due to him, severance pay of not less than five days' wages for each completed year of service up to a maximum period of nine years with the same employer.

(4) Notwithstanding the provisions of subclause (1), not less than five working days' notice shall be given by the employer to an employee to terminate a contract of service, where such termination is a result of retrenchment: Provided that the employees affected, the Council and any trade union or unions which may represent the employees shall be informed at least 14 days prior to notice of retrenchment being given.

## 23. TRANSFER OF CONTRACT OF EMPLOYMENT

(1) A contract of employment may not be transferred from one employer (referred to as "the old employer") to another employer (referred to as "the new employer") without the employee's consent, unless—

(a) the whole or any part of a business, trade or undertaking is transferred by the old employer as a going concern; or

(b) the whole or part of a business, trade or undertaking is transferred as a going concern—

(i) if the old employer is insolvent and being wound up or is being sequestrated; or

(ii) because a scheme or arrangement or compromise is being entered into to avoid winding-up or sequestration for reasons of insolvency.

(2) (a) If a business, trade or undertaking is transferred in the circumstances referred to in subclause (1) (a), unless otherwise agreed, all the rights and obligations between the old employer and each employee at the time of the transfer shall continue as if they had been rights and obligations between the new employer and each employee, and anything done before the transfer by or in relation to the old employer shall be considered to have been done by or in relation to the new employer.

(b) If a business is transferred in the circumstances envisaged by subclause (1) (b), unless otherwise agreed, the contracts of all employees that were existence immediately before the old employer's winding-up or sequestration shall transfer automatically to the new employer, but all the rights and obligations between the old employer and each employee at the time of the transfer shall remain rights and obligations between the old employer and each employee and anything done before the transfer by the old employer in respect of each employee shall be considered to have been done by the old employer.

(3) An agreement contemplated in subclause (2) shall be concluded with the appropriate person or body referred to in section 189 (1) of the Act.

(4) A transfer referred to in subclause (1) shall not interrupt the employee's continuity of employment. That employment shall continue with the new employer as if with the old employer.

(5) The provisions of this clause shall not transfer or otherwise affect the liability of any person to be prosecuted for, convicted of, and sentenced for, any offence.

#### 24. PENALTIES

(1) (a) If any amount falls due in terms of clauses 25 (1) and (2), 26 (1) and 28 (4) of Part I and clause 2 (1) of Part II of this Agreement is not received in full by the Council by the 15th day of the month following the month for which the amount is payable, then the employer shall be liable to pay interest in accordance with the following provisions:

(i) The interest payable shall accrue on the balance of the amount outstanding from time to time from the 15th day until the full amount is received by the Council.

(ii) The interest shall accrue at the same effective rate as the applicable maximum annual finance charge rate as if the amount outstanding were a 'credit transaction' for the purposes of the Act. For purposes of calculating the interest, the provisions of section 2 (2) of the Act shall *mutatis mutandis* apply.

(iii) The Council shall, in its absolute discretion, be entitled to waive payment by the employer of any interest which accrues in terms of this subclause.

(iv) In addition to the provisions of section 2 (2) of the Act, all the other provisions of the Act which are relevant for the purposes of calculating any interest payable by the employer in terms of this subclause shall *mutatis mutandis* apply for these purposes.

(b) For the purposes of this subclause "the Act" means the Usury Act, 1968.

#### 25 TRADE UNION SUBSCRIPTION EMPLOYERS' ORGANISATION LEVY

(1) Every employer shall deduct the amount of subscriptions payable to a trade union after receipt of a signed stop-order in respect of each week or part of a week of employment, including the period an employee is on leave in terms of clause 13, from the earnings of every employee who is a member of the trade union and shall forward the amount thus deducted to the trade union, not later than the 15th day of each month following that in respect of which the deductions were made. The employer may by agreement with the trade union, forward the contributions to the Secretary of the Council.

(2) Every employer who is a member of the Electrical Contractors' Association (South Africa) shall forward the levy payable to the Association, to the Secretary of the Council, not later than the 15th day of each month following that in respect of which the payments are made.

(3) The trade unions and the Electrical Contractors' Association (South Africa) shall indemnify the Council against any claim that may arise in respect of this clause, and when a deduction for subscriptions or the payment of the levy in terms of this clause has been made, irrespective of whether this amount has been paid over to the said trade union or employers' organisation, the employee or employer concerned shall be deemed to have paid his subscriptions or levy to the trade union concerned or employers' organisation.

(4) The Secretary of the Council shall pay all amounts paid in terms of subclauses (1) and (2) hereof to the parties concerned within 30 days of the month in which the amounts were received by the Council.

(5) The Council undertakes to render all reasonable services to give effect to this clause, for which an amount of 2,5 per cent of all contributions and levies in terms of subclauses (1) and (2) shall be paid to the Council.

(6) A sole proprietor, partner, working director or employer engaged in work specified in this collective agreement shall be deemed to be an employee in respect of whom contributions are required to be made in terms of subclause (2).

**26. THE ELECTRICAL DEVELOPMENT AND TRAINING FUND FOR THE ELECTRICAL CONTRACTING INDUSTRY**

(1) Every employer shall, subject to the provisions of subclause (2), contribute to the Electrical Development and Training Fund, hereinafter referred to as the "Fund" an amount as determined by the Electrical Development and Training Fund from time to time in respect of every employee for whom wages are prescribed in this agreement.

(2) (a) Where an employee is employed by two or more employers during the same week, the payment for that week shall be made by the employer by whom he was first employed during the week for not less than eight hours.

(b) No contribution shall be made by an employer in respect of an employee who is employed by him for less than eight hours during any week from Monday to Friday, inclusive.

(3) Every employer shall forward the contributions payable in terms of subclause (1), together with the form specified by the Council, to the Secretary of the Council not later than the 15th day of each month following that in respect of which the payments are due.

(4) The Council shall each month pay over to the Fund the total amount of contributions collected in terms of subclause (1), less a collection fee of 2,5 per cent, which amount shall accrue to the general funds of the Council.

(5) A copy of the constitution of the Fund and any amendments thereto shall be lodged with the Council and the Registrar of Labour Relations.

(6) True copies of the audited statements of revenue and expenditure and balance sheet of the Fund, countersigned by the Chairperson of the Fund or his authorised representative, and of the auditor's report thereon, shall be tabled at the first meeting of the Council after receipt thereof.

(7) A sole proprietor, partner, working director or employer engaged in work specified in this agreement shall be deemed to be an employee in respect of whom contributions are required to be made in terms of subclause (1).

**27. CLOSING OF ESTABLISHMENT ON AN ORDINARY WORKING DAY**

Notwithstanding anything to the contrary in this Agreement, an establishment may, by mutual arrangement between the employer and not less than 66 per cent of this employees, be closed during any period of work specified for that establishment in terms of clause 6 of this Part of the agreement. Where such an arrangement has been arrived at for each specific closing of the establishment, the Council shall be advised of such arrangement made.

**28. REGISTRATION OF EMPLOYERS**

(1) (a) Every employer in the Electrical Contracting Industry shall within 30 days of the date of coming into operation of this agreement register with the Council, by forwarding to the Secretary of the Council the following particulars, on the forms specified by the Council, and documents together with the prescribed registration fee of R75,00:

- (i) Full name of business;
- (ii) business address;
- (iii) full names of owners/partners/directors/members;
- (iv) residential addresses of owners/partners/directors/members;
- (v) the name of the accredited person who is employed on a full-time basis, in terms of the Occupational Health and Safety Act, 1993;
- (vi) the names of all other employees employed by him and, in respect of each individual employee or employer, such personal particulars as may be required by the Council;
- (vii) an electrical contractor's certificate of registration issued by the Electrical Contracting Board of South Africa, in terms of regulation 5 of the Electrical Installation Regulations, 1992, published under the Occupational Health and Safety Act, 1993;
- (viii) satisfactory proof of registration with the Unemployment Insurance Fund, the Compensation Fund, the relevant local authority and the South African Revenue Service.

The requirements of this subclause shall be maintained during the period of registration, and evidence of the continued validity thereof shall be produced at the request of the Council. If there is any change to the above requirements, the Council must be notified within 30 days.

(b) An employer who has already, prior to the date of coming into operation of the Agreement, furnished the particulars required under this clause, shall be deemed to have complied with the provisions thereof and to be registered with the Council.

(c) Employers entering the Industry after the date of coming into operation of this Agreement shall register with the Council and shall furnish the particulars required under subclause (1) (a) within 30 days of commencing operations.

(d) Should the business cease to exist, the Council shall be notified within 30 days and all certificates issued by the Council or the Electrical Contracting Board of South Africa shall be returned to the Council within the same period.

(2) Every employer to whom this Agreement applies, but who is not registered in terms of the provisions of subclause (1) (a) of this clause, shall be deemed to be registered from the date of commencement of his business and shall observe the provisions of this Agreement.



(3) All applications for registration shall be made to the Secretary, Bargaining Council for the Electrical Contracting and Servicing Industry (Cape), 504 Monte Carlo Building, Heerengracht, Foreshore, Cape Town, 8001.

(4) (a) Every employer who has in his employ the categories of employees for whom basic minimum wages are prescribed in terms of clause 4 of Part II of the Agreement shall deposit with the Council an amount equivalent to the wage each such employee would receive in terms of clause 13 of Part I, when proceeding on leave.

(b) The amounts paid to the Council in terms of subclause 4 (a) shall be deposited in a separate account and may be invested by the Council in paid-up shares, fixed deposits or savings accounts with any bank or building society.

(c) In the case of insolvency of an employer the Council shall pay the leave pay which has accrued to the employees of the employer: Provided that the employee has ceded his claim to the Council and that the Council has the right to claim any amount in excess of the deposit lodged with the Council in terms of subclause 4 (a).

(d) All employers shall deposit the amounts prescribed in subclause 4 (a) with the Council within 30 days from the date of coming into operation of this Agreement.

(e) All employers entering the Industry after the date of coming into operation of this Agreement shall deposit the amounts prescribed in subclause 4 (a) with the Council within 30 days of registration with the Council.

(f) An employer employing an employee for whom a deposit is required in terms of subclause 4 (a), shall deposit the prescribed amount with the Council within 30 days of the employee entering his service: Provided that an employer may reclaim the money from the Council 30 days after the employee has left his service.

(g) Deposits made with the Council in terms of subclause 4 (a) may be transferred from one employee to another employee by the employer: Provided that the total amount of the deposit covers all the employees for whom deposits are required.

(h) Notwithstanding anything to the contrary contained in this subclause, the employer or the employer organisation may furnish the Council with a suitable guarantee, which is acceptable to the Council, in the place of the deposit required in terms of subclause 4 (a): Provided that all other provisions pertaining to the manner of payment of the deposit shall be applicable to the lodging of the guarantee.

## 29. REGISTRATION AND TRAINING OF EMPLOYEES

(1) All Elconop 1, Elconop 2 and Elconop 3 employees and labourers shall be issued with a registration card in the manner and form specified by the Council. Such registration card, for which a fee of R20,00 shall be payable, shall contain a photograph of the employee and his category of employment. Such card shall at all times during working hours be in the employee's possession.

(2) When an employer upgrades an employee from labourer to Elconop 1, the employer shall inform the Council within seven days from the date thereof, and arrange for a new registration card to be issued to the employee.

(3) When an employer upgrades an employee from Elconop 1 to Elconop 2, the employer shall apply to the Council in writing and provide a certificate of proficiency as an Elconop 1 in respect of such employee. The Council shall thereafter arrange for the employee to attend the specified formal training course at an accredited training centre accredited by the Electrical Contracting Industries Training Board. Should such employee be successful in the examination, he shall from the date of undertaking such examination be promoted to Elconop 2 and the employer shall arrange for a new registration card to be issued to the employee.

(4) For a period not exceeding three months prior to undertaking the specified formal training, and with the written authority of the Council, an employer shall be permitted to provide on-site training for the employee and allow to him to perform the duties of an Elconop 2: Provided that the employer shall not be required to pay the higher wage or to alter the conditions of employment during the period the employee receives on-site training.

(5) The provisions of subclauses (3) and (4) shall, *ipso facto*, apply when an employer wishes to upgrade an Elconop 2 to Elconop 3.

## 30. OUTWORK

(1) No employer shall require or allow any of his employees to undertake work in connection with the Electrical Contracting Industry other than to execute work in completion of an order placed with such employer.

(2) No employee while in the employ of an employer shall solicit, undertake or perform any work, other than on behalf of his own employer, in the Electrical Contracting Industry, whether for remuneration or not, during or outside of the ordinary hours of work or working days prescribed in clause 6, save that such employee may carry out work on his own premises outside of normal working hours.

## 31. PIECEWORK

(1) The giving out by employers or the performance by employees of work on a piecework basis shall be prohibited. For the purposes of this clause, "piecework" shall mean any system of work under which the minimum wage to which an employee is entitled is calculated solely on the quantity or output of work done, irrespective of the time spent on such work.

(2) Notwithstanding the provisions of subclause (1), it shall be permissible, by agreement between any individual employer and his employee, to introduce and to operate a system of incentive payments: Provided that as a result of the introduction and operation of such system the remuneration and other monetary benefits accruing to employees shall not be less than those prescribed in this Agreement: Provided further that the other provisions of this Agreement are adhered to in every respect: Provided further that apprentices shall not be allowed to participate in such a system.



**32. EMPLOYMENT OF PERSONS UNDER 15 YEARS OF AGE**

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

**33. PROHIBITION OF CONTRACT WORK ON A LABOUR-ONLY BASIS AND/OR HIRING OF LABOUR**

(1) No employer shall—

- (a) avail himself of the services of another person for the supply of labour to perform work covered by this agreement on any basis that provides for remuneration, benefits and allowances to be paid to a person other than the person performing such work;
- (b) in respect of work covered by this Agreement pay remuneration, benefits and allowances to a person other than the person who, in terms of this Agreement, is entitled to such remuneration, benefits and allowances.

(2) No employee or any other person shall make his labour available to an employer on the basis of any contract or arrangement that precludes such employee or other person from exercising his rights under this Agreement to secure from the employer for whom he performs work the remuneration, benefits and allowances prescribed by this agreement.

(3) No employer shall employ any employee of another employer in the Electrical Contracting Industry, whether for remuneration or not, during or outside of normal working hours or during any leave period of such employee.

(4) No employer shall hire any person other than under the terms of this Agreement, nor shall he hire the services of any employee to or from any person, unless such person is an employer engaged in the Electrical Contracting Industry and is engaged in any activity or activities falling within the Electrical Contracting Industry as defined in this Agreement and is registered with the Council. The onus shall be on the employer employing such subcontractor or employer to ensure that he is registered with the Council prior to employment.

**34. TEMPORARY EMPLOYMENT SERVICES**

(1) All temporary employment services (previously labour brokers), as referred to in section 198 of the Act, shall register with the council if they provide to a client employees to perform any work falling within the scope of this Agreement.

(2) No employer may utilize the services of employees procured from a temporary employment service, unless such service provides sufficient proof of—

- (a) registration in terms of the Unemployment Insurance Act, 1966;
- (b) registration in terms of the Compensation for Occupational Injuries and Diseases Act, 1993;
- (c) registration with this Council; and
- (d) compliance with the provisions of this Agreement.

(3) An employer who procures the services of an employee or employees from a temporary employment service shall complete a form in the format specified by the Council in the format specified by the Council in respect of each such employee, and such form shall be signed by both the employer and the employee concerned, declaring that the particulars are correct.

(4) The form referred to in subclause (3) shall contain the following particulars:

- (a) The name, telephone number, residential address and identity number of the employee;
- (b) the business name, business telephone number and physical business address of the temporary employment service concerned;
- (c) the date from which the employer utilises the services of the employee and the expected termination date;
- (d) the site address where the services of the employee will be utilised;
- (e) the anticipated normal hours and overtime to be worked by the employee; and
- (f) the occupation in terms of the agreement applicable to the employee.

(5) The employer shall submit the form referred to in subclause (3) to the Council concerned within five working days after he has commenced using the services of the employee or employees.

(6) In terms of section 198 (4) of the Act, the temporary employment service and the employer shall be jointly and severally liable if the temporary employment service, in respect of its employees, contravenes any of the provisions of this Agreement.

(7) The temporary employment service shall comply with all the terms and conditions of this Agreement and the Pension and Provident Funds Agreement of the Council.

(8) Should the temporary employment service be a member of an employers' organisation that is a party to the Council, the provisions relating to subscriptions and payment of employer organisation levies shall apply.

### 35. PROHIBITION OF CESSION AND/OR SET-OFF

No claim whatsoever by any employee against the Council shall be capable of being ceded and no purported cession thereof shall be binding upon the Council.

Set-off between any amounts payable to an employee referred to in clause 12 of Part I of this Agreement and any amounts payable by such employee, the deduction of which is prohibited by that clause, shall not operate and is expressly excluded, and this provision shall be deemed to be a term of every contract of employment between employer and employee.

### 36. REFRESHMENTS

Every employer shall allow employees a period not exceeding 10 minutes in the morning and again in the afternoon to partake of refreshments, the time for such intervals to be agreed upon between the employers and the employees. No employee may leave the position where he is working to partake of refreshments. Such rest intervals shall be deemed to be part of the ordinary hours of work of the employee concerned.

### 37. FIRST-AID

Every employer shall provide and maintain in good order suitable first-aid equipment as prescribed in clause 3 of the General Regulations, 1986, published under the Occupational Health and Safety Act, 1993, on any premises where employees are employed by him.

### 38. CERTIFICATE OF SERVICE

Every employer shall provide each employee, on the termination of his employment, with a certificate of service showing full names of the employer and the employee, the nature of the employment, the dates of commencement and termination of employment.

### 39. STORAGE, INSURANCE AND PROVISION OF TOOLS

(1) Lock-up facilities for locking up tools shall be provided by the employer on all sites and workshops.

(2) Every employer shall take out an insurance policy with a registered insurance company to insure tools that are the private property of skilled employees in his employ against loss or destruction or damage through fire or theft while on the employer's premises or worksite.

The maximum cover under this clause shall be R600 per employee: Provided that 10 per cent of any loss or damages for which payment is claimed shall be borne by the employee: Provided further that an employer shall require a skilled employee, within seven days of the commencement of his employment, to submit to him an inventory of the tools in his possession, which shall comprise a minimum as detailed hereunder, and the skilled employee shall comply with such requirements to enable the employer to effect the insurance prescribed above. The employer may verify such inventory from time to time.

(3) The tool kit of the skilled employee shall comprise the following:

Toolbox, electrician's insulated pliers, 7" or 8", long-nose insulated pliers, 5 m tape measure, hacksaw (junior or ordinary), stanley cable knife, wire strippers (1 mm to 16 mm), one 15 cm and one 30 cm shifting spanner, spirit level (long), 15 cm or 45° to 90° set square, crimping tool ratched type (1,5 to 16 mm), side cutter insulated (7" or 8"), flat and star assorted screwdrivers, carpenter's hammer, tin snips, combination spanner (5, 8, 10, 12, 13, 15), set allen keys (2 mm to 12 mm), waterpump pliers 10" and chalk line.

(4) The employer shall, where necessary, provide *inter alia* the following tools:

Flat and round files with handles, stocks and dies, chasing chisels, masonry drills, meggers and multimeters, geyser spanners, hole saws, benders, reamers, fish tapes, twist drills, die nuts, chassis punches, electrical power tools and electrical testing instruments: Provided that such tools shall remain the property of the employer. The employee shall exercise due care in the use of and storage of tools provided by his employer. The employer shall be entitled to make deductions from the remuneration payable to any employee for the loss of the employer's equipment signed for by such employee or the insurance excess payable on the loss of any such equipment.

(5) For the purposes of this clause, "skilled employee" shall mean a master installation electrician, installation electrician, electrical tester for single phase, electrician, artisan, apprentice and an Elconop 3.

### 40. ADMINISTRATION OF AGREEMENT

(1) The Council shall be the body responsible for the administration of this Agreement.

(2) Every employer shall keep in his establishment, in a place readily available, a legible copy of this Agreement.

(3) Every employer shall display in his establishment, in a place readily accessible to his employees, a notice stating the starting and finishing time of work.

### 41. DESIGNATED AGENTS

The Council shall request the Minister in terms of section 33 of the Act, to appoint persons as designated agents to assist to giving effect to this Agreement. A designated agent shall have the powers conferred on him in terms of section 142 of the Act, except the powers conferred by section 142 (1) (c) and (d).

#### 42. TRADE UNION ACCESS

- (1) Any office-bearer or official of the representative trade unions shall be entitled to enter the employer's premises in order to recruit members or communicate with members, or otherwise serve their interests.
- (2) A representative trade union shall be entitled to hold meetings with employees outside their working hours at the employer's premises.
- (3) The members of a representative trade union shall be entitled to vote at the employer's premises in any election or ballot contemplated by the trade union's constitution.
- (4) The rights conferred by this clause shall be subject to any conditions as to time and place that are reasonable and necessary to safeguard life or property or to prevent to undue disruption of work.

#### 43. EXEMPTIONS

- (1) In terms of section 32 of the Act, the Council hereby establishes an independent body to consider applications for exemptions from any of the provisions of this Agreement for any good and sufficient reason.
- (2) All applications for exemption shall be in writing (on an application form as provided by the Council) and shall be addressed to the Secretary of the Council for consideration by the Independent Body appointed by the Council.
- (3) All applications for exemption shall be substantiated, and such substantiation shall include the following details:
  - (a) The period for which the exemption is required;
  - (b) the Agreement and clauses or subclauses of the Agreement from which the exemption is required;
  - (c) proof that the exemption applied for has been discussed by the employer, his employees and their respective representatives. The responses resulting from such consultation, either in support of or against the application, are to be included with the application.
- (4) The Secretary of the Council shall in the first instance place the applications for exemption on the agenda of the next Council meeting, for comment.
- (5) The Secretary of the Council shall provide that Independent Body with details of all the applications for exemption.
- (6) The Independent Body shall consider and decide on all written applications and, when requested by the applicants or objectors to do so, may interview applicants or any objectors at its following meeting: Provided that the Independent Body may defer a decision to a following meeting if additional substantiation, information or verbal representations are considered necessary to decide on the application for exemption.
- (7) Once the Independent Body has decided to grant an exemption, it shall issue a certificate and advise the applicant(s) within 14 days of the date of its decision.
- (8) When the Independent Body decides against granting an exemption or part of an exemption requested, it shall advise the applicant(s) within 14 days of the date of such decision and shall provide the reason or reasons for not granting an exemption.
- (9) Exemption criteria: The Independent Body shall consider all applications for exemption with reference to the following criteria:
  - (a) The written and verbal substantiation provided by the applicant;
  - (b) the extent of consultation with and the petition for or against granting the exemption as provided by employers or employees who are to be affected by the exemption if granted;
  - (c) the terms of the exemption;
  - (d) the infringement of basic conditions of employment rights;
  - (e) the fact that a competitive advantage is not created by the exemption;
  - (f) the viewing of the exemption from any employee benefit fund or training provision in relation to the alternative comparable *bona fide* benefit or provision, including the cost of the employee, transferability, administration management and cost, growth and stability;
  - (g) the extent to which the proposed exemption undermines collective bargaining and labour peace in the Electrical Contracting Industry;
  - (h) any existing special economic or other circumstances that warrant the granting of the exemption;
  - (i) reporting requirements by the applicant and monitoring and re-evaluation processes; and
  - (j) cognisance of the recommendations contained in the *Report of the Presidential Commission to Investigate Labour Market Policy*.

#### 44. DISPOSAL OF LEAVE PAY AND LEAVE BONUS

When an employee dies or in the course of his work is incapacitated from continuing working in the industry, the amount that is due in respect of leave pay and leave bonus shall be payable to his estate or himself, as the case may be.



**45. GENERAL**

No employer or employee may waive the provisions of this Agreement, whether or not the said provisions create a benefit or obligation upon the employee concerned. Every provision, subclause or clause shall create a right or obligation, as the case may be, independently of the existence of other provisions.

**46. NEGOTIATING PROCEDURES**

(1) Where any party to the Council wishes to initiate negotiations for the amendment of any existing Agreement or the introduction of a new agreement, the parties shall submit its proposals in writing to the Secretary.

(2) The Secretary shall immediately arrange for the proposal to be circulated to all interested parties and shall take steps to arrange a negotiating meeting within 45 days of receipt of the proposal. Where the Secretary in consultation with the Chairperson of the Council decides that the proposal relates to the negotiation of an Industry matter, the date of the first negotiating meeting shall be decided at the next meeting of the Executive Committee and such negotiating meeting shall be held within 30 days of the Executive Committee meeting.

(3) Further negotiating meetings may be held by agreement between the parties, who may also agree on any procedures, documentation, or any other matters for the purposes of assisting the negotiations.

(4) If the negotiations have not been concluded within 30 days of the first negotiating meeting held, or as otherwise agreed between the parties, any party to those negotiations may declare a dispute by notice in writing to the Council, and shall satisfy the Council that a copy of the referral has been served on all other parties to the dispute. This service shall be effected by fax, hand or registered post.

(5) Industrial and other disputes shall be processed and dealt with in accordance with Council's constitution.

**47. INTERPRETATION, APPLICATION OR ENFORCEMENT**

(1) Any dispute arising which relates to the interpretation, application or enforcement of this Agreement shall be processed in terms of this clause.

(2) A party wishing to lodge such a dispute shall notify the Council in writing, setting out the details of the dispute, and having served a copy of such notification on all other parties to the dispute. Proof of such service shall be provided to the Council, and may include service by fax, hand or registered post. The Council shall arrange a meeting of the parties to the dispute within 10 working days of the dispute having been referred in terms of this clause, unless otherwise agreed between the parties.

(3) If the dispute is not resolved at the meeting referred to in subclause (2) above, it shall be referred to arbitration in terms of this clause, unless otherwise agreed between the parties.

Arbitration in terms of this clause shall be of an expedited nature and the Council shall appoint an arbitrator who is available to commence the arbitration within 10 working days, and the arbitration shall take place accordingly. The arbitrator shall be granted the power to determine the procedure to be followed at the arbitration and to regulate any other matter incidental thereto.

The arbitrator shall normally be required to make a determination within five working days of the completion of the hearing.

(4) Subject to subclause (3), any arbitration in terms of that clause shall be in accordance with clause 48 of this Part.

**48. CONCILIATION**

(1) Any referral to conciliation in terms of this dispute procedure shall be referred in terms of this clause. Subject thereto, any conciliation proceedings shall be regulated by the Act.

(2) The Council shall establish a panel of conciliators, to whom matters shall be allocated at the discretion of the Secretary of the Council: Provided that—

- (a) in the event of the Council having a direct interest in any dispute being processed, it shall be conciliated by a member of the panel who is independent of the Council; and
- (b) in the event of the dispute involving a non-party to the Council, the Council shall ensure that the accreditation requirements of the Act are complied with.

(3) Any conciliator appointed in terms of this clause shall have the powers granted to a commissioner who is empowered to conciliate in terms of the Act. Any conciliator so appointed shall determine a process to attempt to resolve the dispute, which may include—

- (a) mediating the dispute; or
- (b) conducting a fact-finding exercise; or
- (c) making a recommendation to the parties, which may be in the form of an advisory arbitration award.

(4) In any conciliation proceedings, a party to the dispute may appear in person or be represented by a representative of his choice.

(5) By no later than the end of the 30-day period calculated from the appointment of the conciliator, or any further period agreed between the parties, the conciliator shall provide all parties to the dispute with a copy of a certificate stating whether or not the dispute has been resolved: Provided that the conciliator may prior to the expiry of this period confirm that conciliation has failed, in the event that he believes no further purpose would be gained by continuing with the process.



**PART II****1. ALLOWANCES****Travelling or subsistence allowances—**

- (a) Whenever a worksite is situated outside a radius of 15 km from the employers' own place of business where the employee is normally required to report but within the area to which this agreement relates and the employee can reasonably be said to be able to and does return to his home every day, an employee in proceeding to or from the worksite shall travel one way in his own time and the other way during the normal working hours specified in clause 6 of Part I of this Agreement: Provided that time spent in travelling between jobs during that day shall be in the employer's time.
- (b) An employer shall be entitled to provide suitable transport both ways or to pay for transport in respect of the said distance at rates laid down by the Council from time to time. The Council shall determine the rates in January of each year and such rates shall become effective on the first Friday after 15 January of each year.
- (c) An employer shall pay an employee so entitled his transport allowance, as provided for in subclause (b), at the same time as he is paid his normal remuneration.
- (d) Where an employee can reasonably be said to be able to return to his home every day but is precluded from availing himself of transport as contemplated by subclause (b), in consequence of being required to report at his employer's place of business before proceeding to the job and/or at the conclusion of the day's work, such employee shall be paid for every hour travelled outside the ordinary working hours in compliance with such requirement, at 50 per cent of his hourly wage.
- (e) (i) Where an employee can reasonably be said to be unable to return to his home daily, he shall be entitled to suburban railway fair or second class, mainline railway fare to and from the place of work at the beginning and termination of such work, respectively. Time occupied in travelling during the ordinary working hours shall be paid for at the hourly rate of wages of the employee concerned. Bedding and normal meals on mainline trains, when required, shall be paid for by the employer.
- (ii) Where an employee who, by reason of employment, is away from his usual working place and is required by his employer to live away from his usual domicile, board and lodging shall be paid for or provided on the job by the employer. Where no hotel or other suitable accommodation is available within a reasonable distance of the working place and accommodation is supplied on site, the employee shall be paid a subsistence allowance of R50,00 for each night he is required by his employer to live away from his usual domicile. The accommodation supplied on site shall include a bed and mattress. Where meals are supplied by the employer on site, he shall not be required to pay a subsistence allowance but the standard of the meals provided shall be commensurate with the subsistence that would have been paid in terms of this subclause.

**2. EXPENSES OF THE COUNCIL**

The funds of the Council, which shall be vested in and administered by the Council, shall be provided for in the following manner:

- (1) Every employee and every employer shall contribute to the funds of the Council according to the following scale:

<b>A</b>	<b>B</b>	<b>C</b>
Wage group or category of employee	Employee's contribution	Employer's contribution
	Cents per week	Cents per week
Electrical tester for single phase.....	100	100
Master installation electrician.....	100	100
Installation electrician.....	100	100
Electrician and artisan .....	100	100
Elconop 3.....	100	100
Elconop 2.....	70	70
Elconop 1.....	70	70
Labourer.....	70	70
Driver of a vehicle, the unladen mass of which is—		
(a) up to 3 500 kg.....	70	70
(b) from 3 501 kg to 9 000 kg .....	70	70
(c) 9 001 kg and over.....	70	70

- (2) The amounts shown in Column B of the table shall be deducted by employers from the wages of their employees.
- (3) To the amounts thus deducted from the wages of these employees, every employer shall add the amount shown in Column C of the table and forward the total sum, together with a covering statement, to:

The Secretary, Bargaining Council for the Electrical Contracting and Servicing Industry (Cape), 504 Monte Carlo Building, Heerengracht, Foreshore, Cape Town, 8001.

- (4) In any instance where no contributions are payable as provided for in subclauses (1), (2) and (3) hereof and the total amount under subclause (3) is less than R20,00 the total amount referred to in subclause (3) shall be supplemented by the employer by such sum as to make a total of R20,00 in each month.
- (5) Regardless of whether any amount is payable to the Council in terms of this clause, every employer shall, by not later than the 15th day of each month, forward to the Council in respect of the preceding month and in the manner indicated therein, the statement referred to in subclause (3).

### 3. WAGES AND/OR EARNINGS

(1) Every employee who, prior to the date of coming into operation of this agreement, was in receipt of a higher rate than that prescribed in the agreement for the class of work upon which he is employed, shall continue to receive not less than such higher rate while he is employed by the same employer on the same work or any other work for which a minimum rate is prescribed in this Agreement.

(2) No employee shall be employed in more than one occupation scheduled in this Agreement at different rates of pay, in any one week, including any overtime worked, or in a higher paid occupation, unless payment is made as if such employee had been employed for the whole of that week in the highest paid occupation: Provided that, if an employee who normally performs the work of a labourer performs the work of a driver, such employee shall be paid at the higher rate only in respect of time actually engaged in the occupation of a driver: Provided further that if such labourer performs the work of a driver for more than three hours in any one day, he shall be paid at the highest rate for the whole of such day.

(3) Whenever an advance or loan is made by an employer at the request of an employee, the employer may, on receipt of a stop-order signed by the employee, make such deductions from subsequent wages or earnings, but no one deduction shall exceed 15 per cent of the remuneration from which it may be deducted. If the services of an employee are terminated for any reason before the loan or advance has been paid in full, the employer may appeal to Council for reimbursement of the amount owing from the moneys for leave pay and bonus that the employer may have lodged with the Council in respect of the employee in terms of the Agreement. The Council may, after considering any reasons that may have been submitted, uphold the appeal or give such other decision as the Council deems fit.

(4) Where moneys have been advanced to the employee to expend in the course of his duties for his employer, he may be required to render a satisfactory account of expenditure to his employer. Should the services of the employee be terminated and such moneys not have been refunded, the employer shall be entitled to recover the amount of the refund from the employee's wages or earnings: Provided that an employee who is aggrieved by the application of him of this clause, may appeal to the Council against such decision applied to him and the Council may, after considering any reasons that may be submitted for such decision, confirm that decision or give such other decision as in its opinion ought to have been given in such a case.

### 4. SCHEDULE OF WAGES AND/OR EARNINGS

(1) With effect from the date of coming into operation of this Agreement no employer shall pay and no employee shall accept wages at rates lower than the following:

	<i>Rate per hour</i>
Master installation electrician .....	26,93
Installation electrician .....	26,26
Electrical tester, for single phase.....	22,63
Electrician and artisan .....	21,55
Elconop 3.....	16,09
Elconop 2.....	15,23
Elconop 1.....	10,31
Labourer .....	8,44
Driver of a vehicle, the unladen mass of which is—	
(a) up to 3 500 kg .....	9,04
(b) from 3 501 kg to 9 000 kg .....	10,21
(c) 9 001 kg and over .....	11,63

(2) Notwithstanding the provisions of subclause (1) every employee who, on the date of coming into operation of this Agreement, is employed by an employer on work classified in the Agreement and whose actual rate of pay immediate prior to the said date, plus, as a guaranteed personal increase an additional amount of five per cent of his actual hourly rate of pay.

(3) The additional amount payable in terms of subclause (2) may be offset against the amount of any increase granted to such employee on or subsequent to 1 February 1998.

**5. LEAVE BONUS**

(1) Every employee shall, in addition to his leave pay, be paid a leave bonus equivalent to the wages he would normally be paid for a period of 16 working days, whenever he qualifies for leave in terms of clause 13 of Part I hereof, and such leave bonus shall be paid at the same time as his leave pay is paid.

(2) Any period of employment prior to the date of coming into operation of this Agreement, shall count as part of the qualifying period in terms of subclause (1).

(3) Any employee whose category changes from a lower to a higher category during any leave cycle shall, on qualifying for leave, receive a leave bonus calculated on 9 *prorata* basis on the number of days completed in each category.

(4) Any employee who voluntarily resigns from his employment after completing at least 150 shifts in the current leave cycle with the same employer, the employer shall pay him a *prorata* leave bonus in accordance with the following formula:

$$\frac{\text{Number of completed working days with employer in present leave cycle}}{235} \times \text{Leave bonus days applicable to such employee} \times \text{daily remuneration}$$

(5) Notwithstanding the provisions of subclauses (3) and (4), no employee shall be entitled to leave bonus if he has absconded or is dismissed following a fair disciplinary enquiry: Provided that such employee have been completed 235 shifts with the same employer, but absconds or is dismissed before his annual leave is granted to him, his employer shall pay him the leave bonus due in terms of subclause (1).

(6) An employee who absconds or is fairly dismissed and who is aggrieved by the application to him of the provisions of subclause (5) may appeal to the Council against the decision applied to him and the Council may, after considering any reasons which may be submitted for such decision, confirm that decision or give such other decision as in its opinion ought to have been given in such case.

(7) Periods of absence on account of sickness aggregating not more than 43 shifts in any one qualifying period for the leave bonus shall count for the leave bonus: Provided that an employer shall be entitled to call upon the employee for a medical certificate as proof of cause of absence. Periods of absence on account of an accident arising out of and in the course of the employee's employment shall count for the leave bonus purposes if such accident has been admitted as falling within the provisions of the Compensation for Occupational Injuries and Diseases Act, 1993, and the periods of absence counting for purposes of the leave bonus shall be the periods of disablement admitted by the said Act.

Signed at Cape Town as authorised for and on behalf of the parties to the Council this 3rd day of September 1998.

**A. A. STANLEY-BEST**

**Chairperson of the Council**

**J. FLYNN**

**Vice-Chairperson of the Council**

**G. FISHER**

**Secretary of the Council**

**No. R. 1525**

**27 November 1998**

**LABOUR RELATIONS ACT, 1995**

**ELECTRICAL CONTRACTING AND SERVICING INDUSTRY (CAPE): EXTENSION OF PENSION AND PROVIDENT FUNDS COLLECTIVE AGREEMENT FOR THE CONTRACTING SECTION 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 Electrical Contracting and Servicing Industry (Cape) 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 for the period ending 30 September 2003.

**M. M. S. MDLADLANA**

**Minister of Labour**



No. R. 1525

27 November 1998

## WET OP ARBEIDSVERHOUDINGE, 1995

**ELEKTROTEGNIËSE AANNEMINGS- EN BEDIENINGSNYWERHEID (KAAP): UITBREIDING VAN PENSIOENFONDS EN VOORSORGFONDS KOLLEKTIEWE OOREENKOMS VIR DIE AANNEMINGSEKSIE 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 wa in die Bedingingsraad vir die Elektrotegniese Aannemings- en Bedieningsnywerheid (Kaap) 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 September 2003 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 Bedingingsraad.

**SCHEDULE****BARGAINING COUNCIL FOR THE ELECTRICAL CONTRACTING AND SERVICING INDUSTRY (CAPE)****PENSION AND PROVIDENT FUNDS COLLECTIVE AGREEMENT FOR THE ELECTRICAL CONTRACTING SECTION**

in accordance with the provisions of the Labour Relations Act, 1995, made and entered into by and between the

**Electrical Contractors' Association (South Africa)**

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

**South African Electrical Workers' Association****National Employees' Trade Union**

and

**Metal and Electrical Workers' Union of South Africa**

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

being parties to the Bargaining Council for the Electrical Contracting and Servicing Industry (Cape).

**1. SCOPE OF APPLICATION**

- (1) The terms of this agreement shall be observed in the Electrical Contracting and Servicing Industry (Cape)—
  - (a) by all employers and employees in the Electrical Contracting Section of the Electrical Contracting and Servicing Industry (Cape) who are members of the employers' organisation and the trade unions respectively;
  - (b) in the Magisterial Districts of The Cape, Wynberg, including that portion of the Magisterial District of Somerset West, which, prior to 9 March 1973 (Government Notice No. 173 of 9 February 1973), fell within the Magisterial District of Wynberg, Simonstown, Goodwood and Bellville; in those portions of the Magisterial Districts of Malmesbury and Stellenbosch, which, prior to the publication of Government Notices Nos. 171 of 8 February 1957 and 283 of 2 March 1962, respectively, fell within the Magisterial District of Bellville and in that portion of the Magisterial District of Kuils River which, prior to the publication of Government Notice No. 661 of 19 April 1974, fell within the Magisterial District of Stellenbosch but which, prior to 2 March 1962, fell within the Magisterial District of Bellville and in that portion of the Magisterial District of Kuils River which, prior to the publication of Government Notice No. 1683 of 7 August 1987, fell within the Magisterial District of Bellville.
- (2) Notwithstanding the provisions of subclause (1), the terms of this Agreement shall—
  - (a) apply to employees engaged by employers in the categories specified in clause 6 of this Agreement as may be amended from time to time; and
  - (b) not apply to any employee who at the date of coming into operation of this Agreement is, or thereafter becomes, a participant in or a member of any other fund providing provident and/or pension benefits, which fund was in existence on the said date and in which the employer of that employee was on the said date a participant, or to the employer of that employee during such period only as such other fund continues to operate and both employer and employee participate therein, if in the opinion of the Council the benefits of such other fund are, on the whole, not less favourable than the benefits provided by this Fund: which provides solely for payment of benefits on death shall not be deemed to be a pension or provident fund for purposes of this agreement.
- (3) In the event of the expiry of the main agreement by the effluxion of time or cessation for any other cause during the currency of this agreement the classes of work and minimum rates of pay prescribed in the said main agreement shall be deemed to be the classes of work and minimum rates of pay for purposes of this Agreement.
- (4) Clauses 1 (1) (a) and (2) of this Agreement shall not apply to employers and employees who are not members of the employers organisation and trade unions respectively.

## 2. PERIOD OF OPERATION

This Agreement shall come into operation on such date fixed by the Minister in terms of section 32 of the Labour Relations Act, 1995, and shall remain in force until 30 September 2003.

## 3. DEFINITIONS

Any expressions used in this agreement which are defined in the Labour Relations Act, 1995, shall have the same meaning as in that Act and any reference to an Act shall include any amendments to such Act; further, unless inconsistent with the context—

**“Act”** means the Labour Relations Act, 1995 (Act No. 66 of 1995);

**“Council”** means the Bargaining Council for the Electrical Contracting and Servicing Industry (Cape);

**“Electrical Contracting and Servicing Industry (Cape)”**, or **“Industry”** means, without in any way limiting the ordinary meaning or expression, the Industry in which the employers and their employees are associated for any or all of the following:

- (a) The design, preparation, erection, installation, repair and maintenance of all electrical equipment forming an integral and permanent part of buildings or structures, including any wiring, cable jointing and laying and electrical overhead line construction, and all other operations incidental thereto, whether the work is performed or the material is prepared on the site of the buildings or structures or elsewhere;
- (b) the design, preparation, erection, installation, repair and maintenance of all electrical equipment incidental to the purpose for which a building or structure is used including any wiring, cable jointing and laying and electrical overhead line construction, and all other operations incidental thereto, whether the work is performed or the material is prepared on the site of the buildings or structures or elsewhere;
- (c) the design, preparation, erection, installation, repair and maintenance of all electrical equipment incidental to the construction, alteration, repair and maintenance of buildings or structures, including any wiring, cable jointing and laying and electrical overhead line construction, and all other operations incidental thereto, whether the work is performed or the material is prepared on the site of the buildings or structures or elsewhere;
- (d) the design, preparation, erection, installation, repair and maintenance of all electrical equipment not covered by (a), (b) or (c) above, including any wiring, cable jointing and laying and electrical overhead line construction, and all other operations incidental thereto, whether the work is performed or the material is prepared on the site of the buildings or structures or elsewhere.

For the purposes of this definition—

- (i) **“electrical equipment”** includes—

- (aa) electrical cables and overhead lines; and
- (ab) generators, motors, converters, switch and control gear (including relays, contractors, electrical instruments and equipment associated therewith), electrical lighting, heating, cooking, refrigeration and cooling equipment, primary and secondary cells and batteries, transformers, furnace equipment, radio sets and allied electrical apparatus, signalling equipment and other equipment utilising the principles used in the operation of radio or electronic equipment;

- (ii) **“design, preparation, erection, installation, repair and maintenance”** does not include—

- (aa) the manufacture and/or assembly of the aforementioned equipment or component parts thereof;
- (ab) the wiring or installation in motor vehicles of lighting, heating or other equipment or fixtures, whether permanent or otherwise;
- (ac) the manufacture, repair and servicing of motor vehicle batteries;
- (ad) the manufacture, repair and servicing of typewriters and office appliances;
- (ae) the manufacture and/or assembly and/or installation and/or repair and/or maintenance of lifts and/or escalators;

**“Electrical Contracting Section”** means that section of the Electrical Contracting and Servicing Industry in which employers and their employees are engaged or employed in the wiring, installation and maintenance of lighting, heating or other permanent electrical fixtures in or on buildings;

**“employee”** means a master installation electrician, installation electrician, electrical tester for single phase, electrician, artisan, apprentice, Elconop 3, Elconop 2, Elconop 1, labourer and driver, as defined in the Main agreement;

**“establishment”** means any place where the Industry or any part thereof, as herein defined, is carried on;

**“Funds”** means the Funds referred to in clauses 4 and 5;

**“fund year”** means a year ending on 31 August;

**"member"** means an employee for whom membership of the Funds is compulsory in terms of clause 6;

**"Main Agreement"** means the collective agreement for the Electrical Contracting Section of the Bargaining Council for the Electrical Contracting and Servicing Industry (Cape), as amended and extended from time to time in which wages and other conditions of service are specified;

**"Management Committee"** means the Management Committee appointed in terms of clause 9;

**"rules"** means the rules referred to in clause 9;

**"shift"** means any period of eight hours ordinarily worked by an employee during any period of 24 hours in any week from Monday to Friday (inclusive) for an employer in the Industry.

#### 4. PROVIDENT FUND

(1) The Electrical Contracting Section (Cape) Provident Fund (hereinafter referred to as the "Pension and Provident Funds" or the "Fund") originally established on 20 March 1997 in terms of Government Notice No. R. 431 is hereby continued and shall consist of—

- (a) moneys accruing from contributions as prescribed in this Agreement; and
- (b) any other sum to which the Fund may be or may become entitled.

(2) The objects of the Fund shall be to provide members with death and retirement benefits.

#### 5. PENSION FUND

(1) The Electrical Contracting Section (Cape) Pension Fund (hereinafter referred to as the "Pension and Provident Funds" or the "Fund"), originally established on 3 December 1971 in terms of Government Notice No. R. 2169 is hereby continued and shall consist of—

- (a) moneys accruing from contributions as prescribed in this Agreement; and
- (b) any other sum to which the Fund may be or may become entitled.

(2) The objects of the Fund shall be to provide members with death and retirement benefits.

#### 6. MEMBERSHIP

(1) Labourers, Elconop 1's and drivers, or persons admitted to membership of the Provident Fund under Rule 3 and who continue to be members in terms thereof, under the age of 65 years, who are employed in the Electrical Contracting Section of the Electrical Contracting and Servicing Industry (Cape) shall be members of the Provident Fund.

(2) Master installation electricians, installation electricians, electrical testers for single phase, electricians, artisans, apprentices, Elconop 3 and Elconop 2 or persons admitted to the Pension Fund under Rule 3 and who continue to be members in terms thereof, under the age of 65 years, who are employed in the Electrical Contracting Section of the Electrical Contracting and Servicing Industry (Cape) shall be members of the Pension Fund.

#### 7. CONTRIBUTIONS

(1) Each employer shall each week deduct from the wages of his employees who are members of the Pension and the Provident Funds an amount equivalent to 6,5% of the actual wages earned, excluding overtime. To the amount thus deducted the employer shall add an equal amount and forward to the Secretary of the Council, 504 Monte Carlo, Heerengracht, Foreshore, Cape Town, 8001, not later than the 15th day of each month for the month preceding, the total sum together with such form as may be specified by the Management Committee from time to time.

(2) For the purposes of this clause a week shall constitute not less than three shifts actually worked for one employer in the Industry during any one week from Monday to Friday (inclusive).

(3) Contributions to the Pension and/or the Provident Funds for any member shall be remitted for a maximum of three weeks during the member's annual leave period as provided for in clause 13 (1) of the Main Agreement.

(4) All contributions received by the Council in terms of this clause shall be paid to Fedlife Assurance Limited.

#### 8. BENEFITS

(1) Benefits payable to a member of the Pension and the Provident Funds shall be as specified in the rules.

(2) Any benefits accruing under either the Pension or the Provident Funds shall not be capable of being ceded or pledged: Provided that a member may nevertheless nominate a beneficiary to receive the proceeds of his policy in the event of his death prior to retirement.

#### 9. ADMINISTRATION

(1) The Pension and the Provident Funds shall be administered by the Management Committee appointed in terms of subclause (3), in accordance with the rules approved by the Council. Such rules shall not be inconsistent with this agreement or the provisions of the Act and a copy of the rules and any amendments thereto shall be lodged with the Director-General of Labour.



(2) In the event of the dissolution of the Council or in the event of it ceasing to function during the currency of this agreement, the Funds shall continue to be administered by the Management Committee. In the event of the Management Committee being unable or unwilling to perform its duties the Council shall approach the Labour Court in terms of section 59 of the Act as soon as is reasonably practicable after the expiration of the agreement in place at that time. The Management Committee so appointed shall have all the powers vested in the Council for the purpose of this agreement. Payment (if any) for the services rendered by the Management Committee or the liquidators shall form a charge upon the general funds of the Council.

(3) The Council shall appoint the Management Committee from among the representatives of the employers and the employees on the Council or their alternates.

(4) The Management Committee appointed in terms of the preceding subclause shall consist of an equal number of representatives of employers and employees and shall function as the Council may determine.

(5) An alternate may be appointed by the Council for each member of the Management Committee under the same terms and conditions as such member.

(6) The provisions of the Council's constitution relating to the election of a chairperson and a vice-chairperson, their period of office and the calling and the conduct of meetings of the Council shall *mutatis mutandis* apply in the case of the Management Committee.

#### 10. POWERS AND DUTIES OF MANAGEMENT COMMITTEE

(1) Subject to the general direction of the Council and to the terms of this Agreement, the Management Committee shall have full control of the affairs of the Fund and its administration.

(2) The Management Committee shall have power to—

- (a) engage staff to assist in the administration of the Fund, and to fix their remuneration and define their duties;
- (b) empower its chairperson and/or vice-chairperson and its secretary or another official to sign conjointly on behalf of the Fund any agreements and contracts which it has approved;
- (c) take steps to enforce payment of contributions of any sum due to the Fund.

(3) The Management Committee shall cause minutes to be kept of proceedings of all meetings and copies of such minutes to be transmitted to the Council.

#### 11. DESIGNATED AGENTS

The Council shall request the Minister in terms of section 33 of the Act to appoint persons as designated agents to assist to giving effect to this Agreement. A designated agent shall have the powers conferred upon him in terms of section 142 of the Act, except the powers conferred by section 142 (1) (c) and (d).

#### 12. EXEMPTIONS

(1) In terms of section 32 of the Act the Council hereby establishes an independent body to consider applications for exemptions from any of the provisions of this Agreement for any good and sufficient reason.

(2) All applications for exemption shall be in writing (on an application form as provided by the Council) and shall be addressed to the Secretary of the Council for consideration by the Independent Body appointed by the Council.

(3) All applications for exemption shall be substantiated, and such substantiation shall include the following details:

- (a) the period for which the exemption is required;
- (b) the Agreement and clauses or subclauses of the Agreement from which the exemption is required;
- (c) proof that the exemption applied for has been discussed by the employer, his employees and their respective representatives. The responses resulting from such consultation, either in support of or against the application, are to be included with the application.

(4) The Secretary of the Council shall in the first instance place the applications for exemption on the agenda of the next Council meeting, for comment.

(5) The Secretary of the Council shall provide the Independent Body with details of all the applications for exemption.

(6) The Independent Body shall consider and decide on all written applications and, when requested by the applicants or objectors to do so, may interview applicants or any objectors at its following meeting: Provided that the Independent Body may defer a decision to a following meeting if additional substantiation, information or verbal representations are considered necessary to decide on the application for exemption.

(7) Once the Independent Body has decided to grant an exemption, it shall issue a certificate and advise the applicant(s) within 14 days of the date of its decision.

(8) When the Independent Body decides against granting an exemption or part of an exemption requested, it shall advise the applicant(s) within 14 days of the date of such decision and shall provide the reason or reasons for not granting an exemption.

(9) Exemption criteria: The Independent Body shall consider all applications for exemption with reference to the following criteria:

- (a) The written and verbal substantiation provided by the applicant;
- (b) the extent of consultation with and the petition for or against granting the exemption as provided by employers or employees who are to be affected by the exemption if granted;
- (c) the terms of the exemption;
- (d) the infringement of basic conditions of employment rights;
- (e) the fact that a competitive advantage is not created by the exemption;
- (f) the viewing of the exemption from any employee benefit fund or training provision in relation to the alternative comparable bona fide benefit or provision, including the cost of the employee, transferability, administration management and cost, growth and stability;
- (g) the extent to which the proposed exemption undermines collective bargaining and labour peace in the Electrical Industry;
- (h) any existing special economic or other circumstances that warrant the granting of the exemption;
- (i) reporting requirements by the applicant and monitoring and re-evaluation processes; and
- (j) cognisance of the recommendations contained in the *Report of the Presidential Commission to Investigate Labour Market Policy*.

### 13. EXHIBITION OF AGREEMENT

Every employer shall affix and keep affixed in some conspicuous place upon his premises, a copy of this Agreement in legible characters, in at least two of the official languages of the Republic.

### 14. INTERPRETATION, APPLICATION OR ENFORCEMENT

(1) Any dispute arising which relates to the interpretation, application or enforcement of this Agreement shall be processed in terms of this clause.

(2) A party wishing to lodge such a dispute shall notify the Council in writing, setting out the details of the dispute and having served a copy of such notification on all other parties to the dispute. Proof of such service shall be provided to the Council, and may include service by fax, hand or registered post. The Council shall arrange a meeting of the parties to the dispute within 10 working days of the dispute having been referred in terms of this clause, unless otherwise agreed between the parties.

(3) If the dispute is not resolved at the meeting referred to in subclause (2) above, it shall be referred to arbitration in terms of this clause, unless otherwise agreed between the parties.

Arbitration in terms of this clause shall be of an expedited nature and the Council shall appoint an arbitrator who is available to commence the arbitration within 10 working days, and the arbitration shall take place accordingly. The arbitrator shall be granted the power to determine the procedure to be followed at the arbitration and to regulate any other matter incidental thereto.

The arbitrator shall normally be required to make a determination within five working days of the completion of the hearing.

(4) Subject to subclause (3) any arbitration in terms of that clause shall be in accordance with clause 15.

### 15. CONCILIATION

(1) Any referral to conciliation in terms of this dispute procedure shall be referred in terms of this clause. Subject thereto, any conciliation proceedings shall be regulated by the Act.

(2) The Council shall establish a panel of conciliators, to whom matters shall be allocated at the discretion of the Secretary of the Council: Provided that—

- (a) in the event of the Council having a direct interest in any dispute being processed, it shall be conciliated by a member of the panel who is independent of the Council; and
- (b) in the event of the dispute involving a non-party to the Council, the Council shall ensure that the accreditation requirements of the Act are complied with.

(3) Any conciliator appointed in terms of this clause shall have the powers granted to a commissioner who is empowered to conciliate in terms of the Act. Any conciliator so appointed shall determine a process to attempt to resolve the dispute, which may include—

- (a) mediating the dispute; or
- (b) conducting a fact-finding exercise; or
- (c) making a recommendation to the parties, which may be in the form of an advisory arbitration award.

(4) In any conciliation proceedings, a party to the dispute may appear in person or be represented by a representative of his choice.

(5) By not later than the end of the 30-day period calculated from the appointment of the conciliator, or any further period agreed between the parties, the conciliator shall provide all parties to the dispute with a copy of a certificate stating whether or not the dispute has been resolved: Provided that the conciliator may prior to the expiry of this period confirm that conciliation has failed, in the event that he believes no further purpose would be gained by continuing with the process.

Signed at Cape Town, as authorised for and on behalf of the parties to the Council, this 3rd day of September 1998.

**A. A. STANLEY-BEST**

**Chairperson of the Council**

**J. FLYNN**

**Vice-Chairperson of the Council**

**G. FISHER**

**Secretary of the Council**

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THE WEATHER BUREAU: DEPARTMENT OF ENVIRONMENTAL AFFAIRS & TOURISM  
DIE WEERBURU: DEPARTEMENT VAN OMGEWINGSAKE EN TOERISME

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