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## GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

### DEPARTMENT OF LABOUR DEPARTEMENT VAN ARBEID

**No. R. 828**

**7 July 1999**

LABOUR RELATIONS ACT, 1995

#### **CLOTHING INDUSTRY (NORTHERN AREAS): EXTENSION OF COLLECTIVE FUND AGREEMENT TO NON-PARTIES**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of section 32 (2) of the Labour Relations Act, 1995, declare that the Collective Agreement which appears in the Schedule hereto, which was concluded in the Bargaining Council for the Clothing Industry (Northern Areas) 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 2 August 1999, and for the period ending 30 June 2000.

**M. M. S. MDLADLANA**  
Minister of Labour

**No. R. 828**

**23 Julie 1999**

WET OP ARBEIDSVERHOUDINGE, 1995

#### **KLERASIENYWERHEID (NOORDELIKE GEBIEDE): UITBREIDING VAN KOLLEKTIEWE FONDSOOREENKOMS NA NIE-PARTYE**

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, verklaar hierby kragtens artikel 32 (2) van die Wet op Arbeidsverhoudinge, 1995, dat die Kollektiewe Ooreenkoms wat in die Bylae hiervan verskyn en wat in die Bedingsraad vir die Klerasienywerheid (Noordelike Gebiede) 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 2 Augustus 1999, en vir die tydperk wat op 30 Junie 2000 eindig.

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

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

**SCHEDULE****CLOTHING INDUSTRY BARGAINING COUNCIL (NORTHERN AREAS)****COLLECTIVE FUND AGREEMENT**

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

**Transvaal Clothing Manufacturers' Association**

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

**Southern African Clothing and Textile Workers' Union**

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

being the parties to the Clothing Industry Bargaining Council (Northern Areas).

**1. SCOPE OF APPLICATION**

- (1) The terms of this Agreement shall be observed in the Clothing Industry (Northern Areas)—
  - (a) by all employers who are members of the employers' organisation and are engaged in the Clothing Industry, and by all employees who are members of the trade union and who are employed in the Industry;
  - (b) in the Province of the Transvaal, as it existed prior to the coming into operation of the constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993).
- (2) Notwithstanding the provisions of subclause (1)—
  - (a) the terms of this Agreement shall apply only in respect of employees for whom wages are prescribed in the Council's Main Collective Agreement;
  - (b) the provisions of clauses 5, 6, 7 and 9 of this Collective Agreement shall apply in respect of any employee in the Industry for whom no wages are prescribed in the Main Collective Agreement if such employee and his employer have mutually, and with the Bargaining Council, agreed thereto in writing.
- (3) For the purposes of subclause (2)(b), any reference to employees for whom wages are prescribed in the Main Collective Agreement shall be deemed to include employees referred to in that Agreement and any reference to the wage prescribed for an employee shall be deemed to be a reference to such employee's actual wage.
- (4) Clauses 1(1)(a), 2(1), 8, 19B of this Agreement shall not apply to employers and employees who are non-members of the employers' organisation.

**2. PERIOD OF OPERATION**

- (1) This Agreement shall come into operation on such date as may be fixed by the Minister of Labour in terms of section 32 of the Act, and shall remain in force until 30 June 2000.
- (2) Upon the expiry of this Agreement or any extension thereof and in the event of a subsequent agreement not being negotiated within a period of two years from the expiry of this Agreement or any extension thereof, the Provident Fund established and continued in terms of clause 9 shall be liquidated, as though the employees had left the Industry.

**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, unless the contrary intention appears, words importing the masculine gender shall include females; further, unless inconsistent with the context—

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

**"Clothing Industry" or "Industry"** means the Industry concerned with dressmaking, the making either wholly or mainly of all classes of outer and undergarments, including nightwear and protective garments, and all classes of men's and boy's tweed and linen hats and caps, and ties, and includes any process incidental thereto, and also includes making of all classes of garments as aforesaid to the order of any Government department, Provincial Administration, Transnet, or any local authority, but excludes bespoke tailoring and the manufacture of wearing apparel made from furs and pelts;

**"Clothing Industry Training Fund"** means the Training Fund established and administered in accordance with rules made in terms of the constitution of the Federation;

**"contributor"**, for the purposes of clause 9 of this Agreement, means any employee from whom minimum wages are prescribed in the Main Collective Agreement, and includes any person admitted to the Fund in terms of clause 9(4)(b) of this Agreement, but shall not include any employee in the Industry who, owing to his conditions of employment, is a contributor to a pension fund or provident fund which has been registered by the Registrar of Pension Funds in terms of section 4 of Act No. 24 of 1956, and has been approved by the Director-General of Finance in terms of the provisions of the Income Tax Act, Act No. 58 of 1962, and the Clothing Industry Bargaining Council (Northern Areas);

**"Council"** means the Clothing Industry Bargaining Council (Northern Areas), registered in terms of the Labour Relations Act, 1995;

**"experience"** means the total period or periods of employment of an employee in the Clothing Industry and/or the Bespoke Tailoring Industry and/or private dressmaking and/or the Printing Industry in any capacity or capacities in respect of which wages are prescribed in clause 4 of the Main Collective Agreement, and shall be deemed in each contract of service to have been continuous from the time the employee enters his employer's service until the time such service is terminated: Provided that, for the purpose of computing an employee's experience, employment for 16 weeks in any half-year shall be deemed to have been employment for the whole half-year: Provided further that a learner in his first half-year of employment having less than 16 weeks' but 13 or more weeks' experience on the last day of that half-year shall be deemed to have been in employment for the whole half-year: Provided further that the trial period of an employee in terms of clause 13(1)(e) of the Main Collective Agreement shall be deemed to be experience only if the contract of service is confirmed: Provided further that experience in the Knitting Industry shall be regarded as experience in the Clothing Industry;

**"Federation"** means the Clothing Federation of South Africa;

**"Fund"** for the purposes of clause 9, means the Clothing Industry Provident Fund (Northern Areas), established in the Agreement published under the Government Notice No. 1172, dated 2 August 1957, and continued under this Agreement;

**"Main Collective Agreement"** means any current agreement for the Clothing Industry (Northern Areas), published in terms of section 32 of the Act, in which wages are prescribed, or in the absence of such an agreement, the last collective agreement published for the Industry in terms of the Act;

**"Secretary"** means the Secretary of the Bargaining Council and includes any official appointed to assist the Secretary;

**"total weekly wage"** means the amount payable in money to a contributor in respect of the ordinary hours of work;

**"Training Board"** means the Clothing Industry Training Board established in terms of the rules of the Clothing Industry Training Fund and referred to in clause 10 of this Agreement;

**"week"** means a period of five working days;

**"working day"** means any day on which work is performed in the Industry.

#### 4. COUNCIL FUNDS

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

- (1) Every employer shall, on the pay day of each week and from the first pay day after this Agreement comes into operation, deduct 25c from the wages of each of his employees for whom minimum wages are prescribed in the Main Collective Agreement: Provided that no deduction shall be made from the wages of an employee who has worked for less than 20 hours in the week in which the deduction falls due.
- (2) The employer shall forward the total amounts so deducted, together with an equal amount which shall be contributed by him and a statement in the form of Annexure B, to the Secretary of the Council, P.O. Box 5101, Johannesburg, 2000, within seven days of the end of the week in which the deductions fall due.
- (3) Should any amount due in terms of this clause not be received by the Council by the seventh day after the due date in respect of which it is payable, the employer shall pay weekly interest on such amount or on such lesser amount as remain unpaid, calculated at the prime overdraft rate of the Council's Bankers plus two per cent per annum divided by 52 or part thereof from such seventh day until the day upon which payment in cash is actually received by the Council: Provided that the Council shall be entitled in its absolute discretion to waive the payment of such interest or part thereof. At the discretion of the Council, the interest may accrue to the general funds of the Council.

#### 5. MEDICAL BENEFIT SOCIETY

(1) There is hereby continued a medical benefit society known as the Clothing Industry Medical Benefit Society (Northern Areas), in this clause referred to as the "Society".

(2) Every employer shall on the pay day of each week deduct from the wages of each of his employees for whom minimum wages are prescribed in the Main Collective Agreement, other than employees referred to in subclause (8)(a)(iii), an amount equal to 1,7% of the prescribed qualified sewing machinist's wage: Provided that no deduction shall be made from the wages of any employee who has worked less than 20 hours in the week in which the deductions fall due. The employer shall pay the amounts so deducted, together with an amount added by the employer equal to 1,7% of the prescribed qualified machinist's wage in respect of each employee from whose wages 1,7% of the prescribed qualified machinist's wage was deducted, within seven days from the end of the week in which the deductions fall due to the Secretary of the Council, PO Box 5101, Johannesburg, 2000, together with a statement in the form of Annexure B to this Agreement, except as provided for in subclauses (15) and (16).



(3) The Funds of the Society shall, subject to the provisions of this clause, be applied to provide members of the Society with medical treatment and medicines in case of illness and shall be administered by a Benefit Funds' Committee that is appointed by the Council and that consists of seven representatives of the employers' organisation and seven representatives of the trade union in accordance with the constitution of the Society.

(4) The constitution of the Society may be amended at any time by the Benefit Funds' Committee, subject to the approval of the Council. Should a dispute arise at any time as to the provisions of the constitution of the administration of the Society or any other matter in regard to which the members of the Benefit Funds' Committee are equally divided the matter shall be referred to a conciliator or an arbitrator, except that the conciliator and arbitrator must be mutually agreed to. If no agreement is reached within 30 days of the lodging of the dispute, the conciliator must be appointed from the ranks of an accredited agency and the arbitrator must be a senior counsel appointed from the ranks of an accredited agency.

(5) A copy of the constitution, rules and lists of benefits and amendments thereof shall be lodged with the Registrar of Labour Relations, Pretoria.

(6) A copy of the constitution, rules and lists of benefits and any amendments thereof shall be available for inspection by any registered employer or employee in the Industry at the office of the Society during ordinary office hours.

(7) A public accountant or accountants appointed by the Bargaining Council shall audit the accounts of the Society annually for the period ending 31 December of each year. The audited statement and balance sheet shall thereafter lie for inspection at the office of the Bargaining Council and copies thereof shall be transmitted to the Registrar of Labour Relations, Pretoria, the employers' organisation and the trade union.

(8) (a) The following persons shall be eligible for membership of the Society:

- (i) All employees covered by the provisions of the Main Collective Agreement, except employees commencing employment for the first time after the age of 60 years;
- (ii) at the discretion of the Benefit Funds' Committee, employees from allied industries or organisations, with the consent of their employers, may be admitted to the Fund; and
- (iii) continuation members, which, for the purposes of this clause, shall mean members admitted in terms of the specified conditions prior to the coming into effect of this clause, and unemployed members who have applied for continued membership of the Society, subject to the rules, and/or employment in the Clothing Industry or with the Clothing Industry Bargaining Council (Northern Areas), the trade union and the employers' organisation and who have completed 15 years' membership with this Society, who are 50 years or more of age or who have been booked off as permanently unfit for employment, and who pay a subscription of R15,00 per month in advance: Provided that continuation members shall be entitled to all the benefits specified in this clause and the constitution or rules of the Society: Provided further that such benefits shall be obtained only through the Society's appointed medical officers. Notwithstanding the provisions of paragraph (a), no person who is the dependant of a member of a medical scheme in terms of the provisions of the Medical Schemes Act, 1967 (Act No. 72 of 1967), shall be eligible for membership.

(b) Subject to the provisions of the constitution of the Society, a person shall be deemed to be a member of the Society on payment of one week's contributions as provided for in this Agreement and shall be issued with a doctor's card.

(c) On payment of R400,00 per annum, employers in the Clothing Industry (Northern Areas) may become members of the Society.

(d) Membership of the Society shall cease—

- (i) when a member leaves the Industry (a member who becomes unemployed and who does not register for employment shall be deemed to have left the Industry and "registering for employment" shall mean registering for employment with the trade union, the Clothing Industry Bargaining Council (Northern Areas) or the Department of Labour);
- (ii) after a period of 13 weeks' continued unemployment;
- (iii) after a period of 26 weeks of continuous illness certified by one of the Society's medical officers;
- (iv) in the case of a continuation member, if such continuation member has failed to pay the contributions in respect of any month as specified in subclause (8)(a)(iii) and/or takes up employment in any other industry, trade or occupation;
- (v) when a member becomes the dependant of a member of a medical scheme in terms of the provisions of the Medical Schemes Act, 1967.

(e) A member whose membership has ceased under paragraph (d) and who has returned to the Industry shall, after payment of 13 consecutive weekly contributions, be deemed to have been a member of the Society for the period of his employment in the Industry.

(f) Only members in good standing with the Fund shall be entitled to the benefits; and any member whose payment of contributions to the Fund is more than 13 weeks in arrears shall not be in good standing and shall not be entitled to any benefits: Provided that the Benefit Funds' Committee shall be entitled in its absolute discretion to waive the suspension of benefits.

(9) All members from whose wages less than 13 consecutive weekly deductions have been made shall be entitled to only—

- (a) the services of a general practitioner appointed by the Benefit Funds' Committee;
- (b) medicines prescribed by such general practitioner, subject to the Fund's limitations, at such nominal charge as may be decided upon by the Benefit Funds' Committee and recorded in the rules.

(10) All members from whose wages 13 or more consecutive weekly deductions have been made in terms of subclause (2) shall be entitled to the following benefits:

- (a) The services of a general practitioner and dentist (hereinafter referred to as "medical officers") appointed by the Benefit Funds' Committee;
- (b) consultations with such specialists as are appointed by the Benefit Funds' Committee;
- (c) medicines prescribed by the medical officers or specialists of the Society, subject to the Fund's limitations;
- (d) payment of fees for ambulances ordered by the medical officers or specialists of the Society, at such nominal charge as may be decided by the Benefit Funds' Committee and recorded in the rules.

(11) Members of the Society from whose wages deductions have been made regularly for a period of three years (138 deductions) shall, in addition to the benefits referred to in subclause (9) and (10), be entitled to the following, subject to the Fund's limitations:

- (a) Operations and treatment by specialists appointed by the Benefit Funds' Committee;
- (b) hospitalisation for such operations and treatment at hospitals approved by the Benefit Funds' Committee.

(12) In the event of the expiry of this Agreement by effluxion of the time or cessation for any other cause, the Society shall continue to be administered by the Benefit Funds' Committee until it is either liquidated or transferred by the Council to any other fund or funds whose objectives shall be solely to benefit the employees of the Clothing Industry (Northern Areas): Provided that if no new agreement providing for the continuation of the Society is entered into within one year after the expiry of this Agreement or the Society is not transferred as aforesaid within such period, the Society shall be liquidated in the manner set out in subclause (14).

(13) In the event of the dissolution of the Council or in the event of its ceasing to function during any period in which this Agreement is binding in terms of section 32(2) of the Act, the Benefit Funds' Committee shall continue to administer the Society and the members of the Committee existing at the date on which the Council ceases to function or is dissolved shall be deemed to be members thereof for such purposes: Provided, however, that any vacancy occurring on the Committee may be filled by the Registrar of Labour Relations from employers or employees in the Industry, as the case may be, so as to ensure an equality of employer and employee representatives and of alternates in the membership of the Committee. If such Committee is unable or unwilling to discharge its duties or it reaches a deadlock which renders the administration of the Society impracticable or undesirable in the opinion of the Registrar, he may appoint a trustee or trustees who shall carry out the duties of the Committee and who shall possess all the powers of the Committee for such purpose. If no Council exists, the Society shall, upon the expiry of this Agreement, be liquidated by the Committee or the trustees, as the case may be, in the manner set forth in subclause (14): Provided that if upon expiry the affairs of the Council have already been wound up and its assets distributed, the balance of the funds of the Society shall be distributed as provided for in section 59(5) of the Act as if it formed part of the general funds of the Council.

(14) Upon the liquidation of the Society in terms of subclauses (12) and (13), the moneys remaining to the credit of the Society after the payment of all claims against the Society, including administration and liquidation expenses, shall be paid into the funds of the Council.

(15) All administrative and liquidation charges shall be a charge against the funds of the Society.

(16) The provisions of subclause (3) of clause 4 shall *mutatis mutandis* apply to this clause.

(17) An employer shall, at the request of the Secretary, allow his employees to take time off during their working hours to be X-rayed and no deduction shall be made from the employee's wages for the time lost.

(18) The Benefit Funds' Committee shall have the power to determine the amount of benefits to be granted to members and the conditions attached thereto and to vary such amounts and conditions: Provided that the benefits shall not be less favourable than those provided for in this clause.

(19) All funds surplus to the requirements of the Society shall be invested in terms of section 53(5) of the Act.

(20) The funds of the Society shall consist of—

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

## 6. SLACK PAY FUND

(1) There is hereby continued a fund known as the Clothing Industry Slack Pay Fund (Northern Areas), in this clause referred to as the "Fund", the administration of which shall be vested in the Clothing Industry Bargaining Council (Northern Areas), and the purpose of which shall be the payment of benefits to the employees who lose earnings as a result of being put on short time in terms of clause 6 of the Main Agreement and to employees who have been employed by an employer who has been placed in final liquidation. Benefits shall be paid at such rates and under such conditions as may be laid down in the rules adopted by the Council for the administration of the Fund. A copy of such rules and any amendments thereof shall be lodged with the Registrar of Labour Relations, Pretoria, within two weeks of the adoption thereof.

(2) The Fund shall consist of—

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

(3) (a) Every employer shall on the pay day of each week deduct 15c from the wages of each of his employees for whom minimum wages are prescribed in the Main Agreement: Provided that no deduction shall be made from the wages of an employee who has worked for less than 20 hours in the week in which the deductions fall due.

(b) The employer shall forward the total amounts so deducted, together with an equal amount which shall be contributed by him and a statement in the form of Annexure B, to the Secretary of the Council, PO Box 5101, Johannesburg, 2000, within seven days of the end of the week in which the deductions fall due.

(4) All moneys received by the Fund shall be deposited in a banking account of the Council. Moneys required shall be paid out by cheques signed by the signatories who sign the cheques of the Council. Separate accounts of the Fund shall be kept in the Council's books. All moneys not required to meet current payments shall be invested in a building society or as provided for in section 53(5) of the Act at the discretion of the Council, which may vary such investments as it may from time to time determine.

(5) The provisions of clause 4(3), clauses 5(7) and (8)(a)(ii) and (f), (12), (13), (14) and (15) shall *mutatis mutandis* apply to this clause.

## 7. SICK PAY FUND

(1) There is hereby continued a sick pay fund known as the Clothing Industry Sick Pay Fund (Northern Areas), in this clause referred to as the "Fund".

(2) (a) Every employer shall on the pay day of each week deduct from the wages of each of his employees from whom minimum wages are prescribed in the Main Agreement an amount equal to 0,3% of the prescribed qualified machinist's wage: Provided that no deduction shall be made from the wages of any employee who has worked less than 20 hours in the week in which the deductions fall due. The employer shall pay the amounts so deducted, together with an equal amount in respect of each employee from whose wages 0,3% of the prescribed qualified machinist's wage was deducted, within seven days from the end of the week in which the deductions fall due, to the Secretary of the Council, PO Box 5101, Johannesburg, 2000, together with a statement in the form of Annexure B to this Agreement.

(b) The amounts deducted in terms of paragraph (a), together with the amount added by the employer, shall be credited to the Fund.

(3) The money of the Fund shall, subject to the provisions of this clause, be applied to provide members of the Fund with sick pay in case of illness and shall be administered by the Benefit Funds' Committee, as appointed by the Council in terms of clause 5(3) of this Agreement.

(4) The constitution of the Fund may be amended at any time by the Benefit Funds' Committee, subject to the approval of the Council. Should a dispute arise at any time as to the provisions of the constitution of the administration of the Fund or any other matter in regard to which the members of the Benefit Funds' Committee are equally divided, the matter shall be referred to the Bargaining Council, and in the event of no agreement being reached by the Council such dispute shall be referred to an arbitrator agreed upon by them, or failing such agreement, nominated by the Registrar of Labour Relations. The arbitrator's decision shall be final.

(5) A copy of the constitution, rules and lists of benefits and amendments thereof shall be lodged with the Registrar of Labour Relations, Pretoria.

(6) A copy of the constitution, rules and lists of benefits and amendments thereof shall be available for inspection by any registered employer or employee in the Industry at the office of the Fund during ordinary office hours.

(7) All employees from whose wages at least 13 consecutive weekly deductions have been made in terms of subclause (2) shall be entitled to sick pay from the Sick Pay Account on the following conditions:

- (a) Sick pay shall be paid for periods of absence from work of three days, or longer duration owing to illness: Provided that a member produces a certificate covering such period from a medical officer or specialist or, in the case of employees who are not members of the Fund, from a doctor or specialist who attended them during such illness.



- (b) Members shall be entitled to sick pay for not more than 20 working days in any period of 12 months: Provided that in the case of illness arising from pregnancy not more than 20 days' sick pay shall be paid. The Benefit Funds' Committee may in its discretion authorise payment for additional number of days not exceeding ten in any one period.
- (c) A member shall be paid an amount equal to 50 per cent of his weekly wage, divided by five, in respect of each day of absence owing to illness: Provided that where the amount so calculated exceeds 50 per cent of the minimum qualified wage prescribed for a machinist for the last period of the current Main Agreement, rounded off upwards to the nearest Rand, only such amount shall be paid.
- (d) A member who has been in the employ of the same employer for at least 26 weeks shall be paid an amount equal to 65 per cent of 20 days' wages upon going on maternity leave.
- (8) All moneys surplus to the requirements of the Fund shall be invested in terms of the provisions of section 53(5) of the Act.
- (9) (a) For the purpose of calculating sick pay, one complete week shall mean five consecutive working days.
- (b) For the purpose of subclause (7), a period of 12 months shall be reckoned from the first day of January to the last day of December.
- (c) No sick pay shall be paid in terms of subclause (7) for any period for which holiday pay is payable and/or the period of 15 working days calculated from the last day of work of a workplace closing for annual leave at the end of each year.
- (10) The Benefit Funds' Committee shall have the power to determine the amount of sick pay to be granted to members and the conditions attached, and to vary such conditions: Provided that the amount of sick pay paid to an employee shall not be less favourable than that specified in this clause.
- (11) The Fund shall consist of—
  - (a) contributions paid into the Fund in accordance with the provisions of this Agreement;
  - (b) interest derived from the investment of any moneys of the Fund;
  - (c) any other moneys to which the Fund may become entitled.
- (12) The provisions of clause 4(3) and clauses 5(7), (8)(a)(ii), and (f), (12), (13), (14) and (15) shall *mutatis mutandis* apply to this clause.

## 8. HOLIDAY PAY FUND

- (1) (a) There is hereby continued a holiday pay fund known as the Clothing Industry Holiday Pay Fund (Northern Areas), hereinafter referred to as the "Fund". The Fund is non-compulsory:
- (b) The fund shall consist of—
  - (i) contributions paid in terms of subclause (2) of this clause;
  - (ii) interest earned on moneys invested; and
  - (iii) any other moneys falling to the credit of the Fund.
- (c) The Council shall appoint a public accountant or accountants whose remuneration shall be paid by the Council out of the administration fee. The accounts shall be audited annually for the period ending 31 December. The audited statement and balance sheet shall thereafter lie for inspection at the office of the Council and copies thereof shall be transmitted to the Registrar of Labour Relations, Pretoria, the trade union and the employers' organisation.
- (d) All moneys received by the Secretary of the Council shall within seven days after receipt be deposited in a savings bank account designated by the Executive Committee of the Council. Any application for withdrawal from the savings bank account shall be signed by such persons as may from time to time be authorised by the Executive Committee of the Council. All moneys required to meet the liabilities of the Fund shall be withdrawn from the savings bank account and shall be deposited in a separate bank account of the Council and any liabilities of the Fund shall thereafter be paid by cheque drawn on the latter account.
- (2) An employer who elects to participate in the Fund on a voluntary basis shall, within seven days from the date on which wages were paid to his employees, submit to the Secretary of the Council, P.O. Box 5101, Johannesburg, 2000, an amount equal to eight per cent of the total amount of wages so paid to his employees, less any amount paid in terms of the provisions of clause 12(2) of the Main Agreement during the preceding week, together with a statement in the form of Annexure B to this Agreement.
- (3) All amounts paid in terms of subclause (2) shall be deposited in a banking account and a record shall be kept of the total amount received from each employer in the Industry.
- (4) An employer who contributes to the Fund shall, in terms of clause 12 of the Main Agreement, in the month of December and not later than five days prior to the closing of his factory for annual leave submit to the Council a list of all his employees, together with the amount of holiday pay and payment for paid public holidays due to each employee.
- (5) Should the total amount submitted by an employer in terms of subclause (2) be less than the total amount of holiday pay due to all his employees, the list of employees referred to in subclause (4) shall be accompanied by such additional amount.

(6) Should the total amount submitted by an employer in terms of subclause (2) be in excess of the total amount of holiday pay due to all his employees, such excess amount shall be refunded to the employer concerned on the date on which the holiday pay is paid to his employees.

(7) The provisions of the clause shall *mutatis mutandis* apply in the case of a factory closing down during the course of any year.

(8) Any moneys held in this Fund shall in the case of the insolvency of an employer who has contributed to this Fund be off-set against the claims any guarantor and/or insolvent estate, as the case may be.

(9) The Executive Committee shall be responsible for the management of this Fund.

(10) The interest earned on moneys deposited in terms of subclause (3) shall be distributed as follows:

(a) 25 per cent shall be paid to the Council to cover administration costs;

(b) the balance shall be refunded to the employers pro rata to the total amounts received from each employer during the year ending 31 December of each year.

(11) An employer contributing all moneys as required in terms of subclauses (2) and (5) shall not be responsible for payment of the annual holiday leave pay and payment for paid public holidays falling within such leave period as specified in clause 13(1), (2) and (4) of the Main Agreement.

## 9. PROVIDENT FUND

(1) There is hereby continued a provident fund known as the Clothing Industry Provident Fund (Northern Areas) the purpose of which shall be the provision of benefits to contributors as provided in this Agreement.

(2) The Fund shall consist of—

(a) contributions paid into the Fund in accordance with the provisions of this Agreement;

(b) interest derived from the investment of any moneys of the Fund;

(c) any moneys credited to individual contributors in terms of clause 11 of this Agreement;

(d) any other sums to which the Fund may become entitled or which may be donated to the Fund.

(3) (a) (i) The administration of the Fund shall be vested in a Benefit Funds' Committee, and shall consist of seven employers' representatives and seven employees' representatives appointed by the Clothing Industry Bargaining Council (Northern Areas). For each representative an alternate shall be appointed.

(ii) The rules of the Fund adopted by the Clothing Industry Bargaining Council (Northern Areas) may be amended at any time by the Benefit Funds' Committee, subject to the approval of the Council and to the provisions of subclause (9).

(b) Four employers' representatives and four employees' representatives shall constitute a quorum and all matters shall be determined by a majority vote.

(c) All expenses of administration shall be a charge against the Fund.

(d) A copy of the rules and any amendments thereto shall be available for inspection by any employer or contributor at the office of the Secretary during office hours. A copy of such rules and any amendments thereto shall be furnished to the Director-General of Finance and the Registrar of Labour Relations, Pretoria.

(e) The Council shall appoint a public accountant or accountants whose remuneration shall be paid out of the Fund. The accountants shall be audited annually for the period ending 31 December. The audited statement and balance sheet shall thereafter lie for inspection at the office of the Bargaining Council and copies thereof shall be transmitted to the Registrar of Labour Relations, Pretoria, the trade union and the employers' organisation.

(f) All moneys received by the Fund shall be deposited in a banking account of the Council. Moneys required shall be paid out by cheque signed by signatories who sign the cheques of the Council. Separate accounts of the Fund shall be kept in the Council's books.

(g) Any moneys not required to meet current payments shall be invested by the Benefit Funds' Committee in accordance with the provisions of the rules relating to investment of funds as approved by the Council and Registrar of Labour Relations, Pretoria.

(4) The membership of the Fund shall consist of—

(a) all employees for whom minimum wages are prescribed in the Main Agreement for the Clothing Industry (Northern Areas);

(b) at the discretion of the Benefit Funds' Committee, employees from allied industries or organisations who, with the consent of their employers, may be admitted to the Fund.

(5) (a) (i) Every employer shall, on the pay day of each week and from the first pay day after the Agreement comes into operation, deduct from the wages of each contributor in his employ 4,5 per cent of the prescribed wage payable to such contributor, calculated to the nearest cent: Provided that no deduction shall be made from the wages of a contributor who has worked for less than 20 hours in the week in which the deductions fall due.

(iii) To the aggregate amount deducted under subparagraph (i), every employer shall contribute an equal amount in respect of each employee. The employer shall forward the total amounts deducted under subparagraph (i) together with his own contribution in terms of this subparagraph to the Secretary of the Council, P.O. Box 5101, Johannesburg, 2000, together with a statement in the form of Annexure B to this Agreement, within seven days from the date on which the deductions were made.



(c) Should an employer fail to make the required deductions from the remuneration of his employee, he shall not be entitled to recover from his employee the amount claimed from him.

(d) The provision of subclause (3) of clause 4 shall *mutatis mutandis* apply to this clause.

(6) (a) (i) Benefits shall be provided to contributors as may be specified in the rules of the Fund.

(ii) Contributors who have left the Industry may apply for a withdrawal of all accumulated benefits. Payments shall not be made to a contributor until such contributor has been out of the Industry for six months (except at the discretion of the Benefit Funds' Committee). All applications for benefits shall be made in writing, in the form specified in the rules of the Fund.

(c) Every contributor shall be required to nominate a beneficiary to whom, in the event of the death of the contributor, any benefits due to such contributor shall be paid. In the event of the Fund not being advised of such beneficiary, any benefits due at the time of a contributor's death shall be paid into the estate of such deceased contributor. The nomination of a beneficiary shall be made in the form of Annexure A.

(d) If a contributor returns to the Industry before payment has been made on an application of withdrawal, the application shall automatically lapse and contributions forthwith be resumed.

(e) Any amount held to the credit of a contributor who has not been employed in the Industry for a continuous period of three years shall be disposed of as provided in the rules.

(7) (a) The minimum benefits that shall be paid to a contributor on withdrawal shall be the total amount contributed plus—

- (i) if the total number of weekly contributions is 46 or more, but less than 92, an additional 10% of the amount contributed on his behalf by his employer;
- (ii) if the total number of weekly contributions is 92 or more, but less than 138, 25 per cent of the amount contributed on his behalf by his employer;
- (iii) if the total number of weekly contributions is 138 or more, but less than 184, 50 per cent of the amount contributed on his behalf by his employer;
- (iv) if the total number of weekly contributions is 184 or more, but less than 230, 75 per cent of the amount contributed on his behalf by his employer;
- (v) if the total number of weekly contributions is 230 or more, 100 per cent of the amount contributed on his behalf by his employer; or,

in the case of the death or retrenchment of the contributor, the benefits which shall be paid into his beneficiary shall be the total amount contributed on his behalf by his employer.

(b) For purposes of calculating the percentage of the employer's contributions due to contributors referred to in subclause (10), "period of contribution" shall mean the total number of weeks with which such member is credited in that subclause and such number of weeks shall be regarded as additional weekly contributions, but the percentage of the employer's contributions shall be calculated only on the weekly contributions actually paid after 31 December 1956.

(c) A member who re-enters the Industry after withdrawing contributions shall be deemed to be a new contributor.

(d) A member who has withdrawn his contributions under the provisions of any previous agreement shall as from the coming into operation of this Agreement be regarded as a newcomer in the Industry.

(8) In addition to the refund of a contributor's own contributions and the payment of such benefits as may have accrued to him, a contributor shall be entitled to interest, the rate of which shall be determined by the Benefit Funds' Committee but which shall be not less than the rate paid by the Post Office Open Savings Accounts: Provided that—

- (i) interest shall be credited to contributors' balances irrespective of services; and
- (ii) interest shall be credited to the contributors' accounts on contributors' accumulated interest and bonuses and be paid to them together with the refund of contributions and any other benefits which may be due on termination of service or retirement.

(9) (a) The Council may from time to time increase the benefits stated in this Agreement by declaration of a bonus in the light of improvement in the finances of the Fund through—

- (i) accrual of interest;
- (ii) contributors leaving the Industry before qualifying for the 100 per cent of the employers' contributions:

Provided that any such bonus shall be determined only after an investigation by a public accountant into the assets and liabilities of the Fund: Provided further that such bonus shall not be in excess of any amount recommended by such accountant. Such bonus shall be credited to the contributor's account, and shall be payable to such contributor at the same time and in addition to the benefits specified in subclauses (6) and (7).

(b) The Council may also use moneys arising out of paragraph (a)(i) and (ii) to augment benefits—

- (i) to contributors who leave the Industry from the age of 50 years; or
- (ii) to deceased contributors by the payment of a death benefit to the estate, the beneficiary or beneficiaries, or any person defraying the funeral expenses of such deceased contributor.

(10) In addition to any other benefits provided for in this Agreement, members who were contributors to the Clothing Industry Provident Fund (Northern Areas) prior to 31 December 1956, shall be entitled to the amounts credited to their individual accounts in terms of clause 12 of the Agreement published under Government Notice No. R. 1329 of 30 July 1971.

(11) Benefits shall not be—

- (a) capable of being ceded, assigned, transferred, or made over in any way, either generally or as security for any debt or obligation due by the contributor and the Fund shall be under no obligation to recognise, acknowledge, or act on any such purported cession, assignment, transfer or making over;
- (b) attached by order or process of any court;
- (c) set off against any debt by the person entitled to such benefits, except in the case of a loan granted to a contributor from his loan account and any interest due on such loan.

(12) Notwithstanding anything to the contrary herein contained, the Clothing Industry Bargaining Council (Northern Areas) may formally dissolve the Fund as constituted and transfer all funds, assets and liabilities to a fund duly constituted for substantially the same purposes for which this Fund was created. In the event of such decision, all amounts standing to the personal credit of members of the Fund shall be transferred to their credit under the new fund and the benefits due to members, as at the date of such transfer, shall in no way be diminished by virtue of such transfer.

(13) In the event of the Council being dissolved during the currency of this Agreement or any extension thereof or before the expiry of the period of two years referred to in clause 2(2), then, notwithstanding anything to the contrary contained in this Agreement, contributions to the Fund shall cease as from the day following the date of publication in the *Gazette* of the notice of dissolution of the Council in terms of the Act and the Fund shall *mutatis mutandis* be liquidated in the manner laid down in clause 2(2) of this Agreement: Provided that the duties in connection with such liquidation shall be performed by such other body or persons as the Registrar or Labour Relations may appoint.

(14) On liquidation of the Fund in terms of subclause (13) and payment of money due to members in terms of that subclause, the moneys remaining to the credit of the Fund after payment of all claims against the Fund, including administration and liquidation expenses, shall be paid into the funds of the Council. If the affairs of the Council have already been wound up and its assets distributed, the balance of this Fund shall be distributed as provided for in section 59(5) of the Act, as if it formed part of the general funds of the Council.

(15) The members of the Bargaining Council or the members of the Benefit Funds' Committee shall not be held responsible for any act which may result in loss to the Fund where such act was done in good faith.

#### 10. CLOTHING INDUSTRY TRAINING BOARD

(1) The Council having been advised of the establishment of the Clothing Industry Training Board (established by the Clothing Federation of South Africa and hereinafter referred to as the "Training Board"), hereby authorises, for the purposes of implementing the objects set forth in the rules of the Clothing Industry Training Fund, the collection of contributions in accordance with the procedure detailed in this clause.

(2) (a) Subject to the provisions of paragraph (b), every employer in the Industry shall contribute to the Training Fund an amount equal to R1,75 + VAT per employee per week, which amount shall be paid to the Secretary of the Council, P.O. Box 5101, Johannesburg, 2000, within seven days after the end of the week in which the contributions fall due.

(b) No payment shall be made in respect of an employee for any week in which he is employed for less than 20 hours.

(3) The total amount of contributions collected by the Council in accordance with the provisions of subclause (2), less such amount as shall be agreed upon by the Council and the Clothing Federation of South Africa as a collection fee, shall be paid to the Clothing Federation of South Africa on behalf of the Training Fund, P.O. Box 8107, Johannesburg, 2000, not later than the 28th day of the month following that during which the contributions are received.

(4) Copies of the rules and all audited accounts and balance sheets of the Training Fund shall be lodged with the Council and with the Registrar of Labour Relations. For the purposes of this subclause, the term "rules" shall include any amendment to the rules adopted from time to time.

(5) The provisions of clause 4(3) shall *mutatis mutandis* apply to this clause.

#### 11. LIABILITY FOR PAYMENT OF CONTRIBUTIONS

(1) Notwithstanding the provisions of clauses 4, 5, 6, 7, 9 and 10 of this Agreement, the total amount of contributions due and payable by the employer to each of the Funds referred to in these clauses shall be calculated by multiplying the normal weekly amount that must be deducted from the employee's wage for each of the Funds, plus the amount to be added as the employer's contribution to each Fund and the weekly contribution in terms of clause 10, by the number of pay weeks in each calendar month, (except the month of December, which shall be regarded as having only three Fridays) in respect of each employee in his employment as at the first day of each calendar month, excluding the month of January, in respect of which no contributions shall be payable to any of the Funds.

(2) Deductions shall be made during the month of January of each year, and shall be made from each new employee's actual weekly wage from the date of starting, but notwithstanding the provisions contained in clauses 4, 5, 6, 7 and 9 of this Agreement deductions made in January and in the starting month of an employee, together with the specified employer's contribution, shall not be submitted to the Council, and the employee's actual weekly wage paid by the employer to the employee shall be reduced by the amount deducted for the month of January or during the starting month of an employee, and ownership of the amounts so deducted shall be vested in the employer.

(3) The Council shall submit a monthly statement, in duplicate, in the form of Annexure C to each employer, calculated as set out in subclause (1), and the employer shall deduct from the amount stated all contributions paid in terms of the provisions of clauses 4, 5, 6, 7, 9 and 10 of this Agreement. Should there be a balance, such unpaid balance shall be paid to the Secretary of the Council, P.O. Box 5101, Johannesburg, 2000, by not later than the 10th day of the month following the month to which it relates.

(4) Every employer shall return one copy of the statement referred to above to the Secretary of the Council, P.O. Box 5101, Johannesburg, 2000, by not later than the 10th day of the calendar month following the calendar month to which it relates, together with the following information:

- (a) The termination date of any employee whose services were terminated during the calendar month shall be entered in the relevant column of the statement, and his doctor's card shall be attached to this form. Failure to enter the termination date on return the doctor's card shall render the employer liable for the contributions as if such employee were still in his employ.
- (b) The surnames of all new employees and their initials, clock card numbers (if any), actual wages paid, dates of engagement and occupations shall be entered on the blank Annexure C form, which shall accompany, and be returned together with, the monthly statement.
- (c) Any change in the details relating to the clock card number (if any), the actual wage paid and the occupation shall be recorded on the detailed Annexure C form, which shall accompany, and be returned together with, the monthly statement.
- (d) Should any employee's surname be changed owing to marriage or for any other reason, the surname shall not be changed on the Annexure C form, but the employee shall personally apply to the Council for the change to be made.

(5) Whenever an employee pays any sum of money which is due to the Council in terms of this Agreement in any manner other than in cash, and such payment is unpaid for any reason whatever, then in such event a penalty shall be payable by the employer to the Council in its sole discretion, which penalty shall be equal to 1,5 per cent of the amount of the purported payment. Any penalty due to the Council in terms of this subclause shall be payable on demand.

## 12. POWERS OF DESIGNATED AGENTS AND APPOINTED CONCILIATORS AND ARBITRATORS

(1) A designated agent appointed by the Minister in terms of section 33(1) of the Act to attempt to resolve a dispute or to investigate any alleged contravention and for purposes of routine inspection to enforce compliance with this Agreement in terms of clause 13 of this Agreement or the Disputes Procedure in terms of clause 14 of this Agreement, may—

- (a) subpoena for questioning any person who may be able to give information or whose presence at the conciliation or arbitration proceedings may help to resolve the dispute;
- (b) subpoena any person who is believed to have possession or control of any book, document or object relevant to the resolution of the dispute, to appear before the designated agent to be questioned or to produce that book, document or object;
- (c) administer an oath or accept affirmation from any person called to give evidence or be questioned;
- (d) at any reasonable time, but only after obtaining the necessary written authorisation—
  - (i) enter and inspect any premises on or in which any book, document or object relevant to the resolution of the dispute is to be found or is suspected on reasonable grounds of being there;
  - (ii) examine, demand the production of, and seize any book, document or object that is on or in those premises and that is relevant to the resolution of the dispute; and
  - (iii) take a statement in respect of any matter relevant to the resolution of the dispute from any person on the premises who is willing to make a statement;
- (e) inspect, and retain for a reasonable period, any of the books, documents or objects that have been produced to, or seized by, the designated agent.

(2) A subpoena issued for any purpose in terms of subclause (1) must be signed by the Secretary of the Bargaining Council and must—

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

(3) The written authorisation referred to in subclause (1)(d)—

- (a) if it relates to residential premises, may be given only by a judge of the Labour Court and with due regard to section 14 of the Constitution, and then only on the application of the designated agent setting out under oath or affirmation the following information—
  - (i) the nature of the dispute;
  - (ii) the relevance of any book, document or object to the resolution of the dispute;
  - (iii) the presence of any book, document or object on the premises; and
  - (iv) the need to enter, inspect or seize the book, document or object;
- (b) in all other cases, may be given by the Secretary of the Council.



(4) The owner or occupier of any premises that a designated agent is authorised to enter and inspect, and every person employed by that owner or occupier, must provide facilities that a designated agent requires to enter those premises and to carry out the inspection or seizure.

(5) The appointed person must issue a receipt for any book, document or object seized in terms of subclause (1).

(6) The law relating to privilege, as it applies to a witness subpoenaed to give evidence or to produce any book, document or object before a court of law, applies equally to the questioning of any person or the production or seizure of any book, document or object in terms of this clause.

(7) The appointed person must pay the specified witness fee to each person who appears before him in response to a subpoena issued.

(8) A person commits contempt of the designated agent—

- (a) if, after having been subpoenaed to appear before him, the person without good cause does not attend at the time and place stated in the subpoena;
- (b) if, after having appeared in response to a subpoena, that person fails to remain in attendance until excused by the designated agent;
- (c) by refusing to take the oath or to make an affirmation as a witness when a designated agent so requires;
- (d) by refusing to answer any question fully and to the best of that person's knowledge and belief, subject to subsection (6);
- (e) if the person, without good cause, fails to produce the book, document or object specified in a subpoena to a designated agent;
- (f) if the person wilfully hinders a designated agent in performing any function conferred by or in terms of the Act;
- (g) if the person insults, disparages or belittles a designated agent, or prejudices or improperly influences an investigation or improperly anticipates the designated agent's recommendations;
- (h) by wilfully interrupting the conciliation or arbitration proceedings or misbehaving in any other manner during those proceedings;
- (i) by doing anything else in relation to the designated agent which, if done in relation to a court of law, would have been contempt of court.

(9) The designated agent may refer any contempt to the Labour Court for an appropriate order.

### 13. PROCEDURE TO ENFORCE COMPLIANCE WITH THIS AGREEMENT

The Council shall take all reasonable steps to ensure compliance with this Agreement. If, whether through its own investigations or through any other source, it appears as if the provisions of this Agreement have been breached then the following procedure shall apply to enforce compliance:

- (a) The Council shall request the Minister to appoint a designated agent to investigate the alleged breach and/or refer the matter to the Council.
- (b) If, on completion of the investigation, the designated agent has reason to believe that this Agreement has been breached, the designated agent may endeavour to secure compliance with the Agreement through conciliation.
- (c) At the end of the conciliation process, the designated agent shall submit a report to the Secretary of the Council as to the result of the investigation, the steps taken to secure compliance with this Agreement through conciliation and the outcome thereof.
- (d) On receipt of the report, the Secretary of the Council may—
  - (i) require the designated agent to make further investigations; or
  - (ii) refer the matter to arbitration in terms of this Agreement; or
  - (iii) take such other steps as may be deemed reasonable.
- (e) If the Secretary of the Council decides to refer the matter to arbitration, he must appoint an arbitrator to hear and determine the alleged breach of this Agreement.
- (f) The arbitrator, in consultation with all the parties who may have a legal interest in the outcome of the arbitration, shall decide the date, time and venue of the arbitration hearing.
- (g) The Secretary of the Council shall serve notices of the date, time and venue of the arbitration on all the parties who may have legal interest in the outcome of the arbitration. Any party who has legal interest in the outcome of the arbitration shall have the right to—
  - (i) give evidence;
  - (ii) call witnesses;
  - (iii) question the witnesses of any other party;
  - (iv) address concluding arguments to the arbitrator;
  - (v) be represented by—

- (aa) legal practitioner; or
  - (ab) an office-bearer or official of his trade union or employers' organisation and, if the party is a juristic person, by a director or employee thereof.
- (h) The arbitrator shall have the following powers:
- (i) To determine whether there has been a breach of the Agreement;
  - (ii) to make any appropriate award that gives effect to the Agreement and ensures compliance therewith;
  - (iii) to determine the appropriate form of and the procedure to be followed at the arbitration proceedings;
  - (iv) to make any order as to costs that he deems appropriate and where the Act provides for such an order to be made or for the Council to recover its costs of providing the arbitration service: Provided that where the Council's accredited conciliator has made an advisory award in terms of clause 14(3)(c) which is substantially the same as the award made by the arbitrator, the arbitrator shall make a costs order against the party concerned which shall, as a minimum, cover the Council's cost of dealing with the dispute;
  - (v) to make an award in the absence of a party who is alleged to have breached the Agreement if—
    - (aa) the party fails to appear in person or be represented at the arbitration proceedings;
    - (ab) proof is presented that such party has been notified of the proceedings (notice of the arbitration proceedings shall be deemed to have been given if proof is presented that written notification has been forwarded to such party);
    - (ac) prima facie evidence has been presented to the arbitration that the party in question has failed to comply with this Agreement.
  - (vi) vary, rescind or amend an arbitration award made by him or any other arbitrator on good cause shown. Without limiting the generality hereof, the arbitrator shall have this power if—
    - (aa) the award was erroneously sought or erroneously made in the absence of any party affected by the award;
    - (ab) the award is ambiguous or contains an obvious error or omission, but only to the effect of that ambiguity, error or omission;
    - (ac) the award was granted as a result of a mistake common to the parties to the proceedings;
  - (j) Any award made by the arbitrator together with any reasons shall be served on all interested parties by the Council.
  - (k) The Secretary of the Council may apply to make the arbitration award an order of the Labour Court in terms of section 158(1) of the Act.

#### 14. DISPUTE PROCEDURE

- (1) Accreditation
- (a) The Council must apply for accreditation for the purposes of dispute resolution as provided for in the Act.
  - (b) In the event of the Council not being accredited for whatever reason, the Council must employ the services of an accredited agency to perform the conciliation and arbitration services provided for herein.
- (2) Scope of application
- (a) In this clause, "dispute" means any dispute which arises within the registered scope of the Council about a matter of mutual interest between—
    - (i) on the one side—
      - (aa) one or more trade unions;
      - (ab) one or more employees; or
      - (ac) one or more trade unions and one or more employees; and
    - (ii) on the other side—
      - (aa) one or more employers' organisations;
      - (ab) one or more employers; or
      - (ac) one or more employers' organisations and one or more employers.
  - (b) For the purposes of this clause, a party to the Council includes the members of any registered trade union or registered employers' organisation that is a party to the Council.

## (3) Referral and conciliation of disputes to and by the Council

Disputing parties shall seek to resolve any dispute between themselves as follows:

- (a) Any of the parties to the dispute may refer the dispute to the Council. Except for disputes which arise from negotiations for the purpose of reaching a collective agreement in the Council or any other forum agreed to between the parties, all dispute referrals must be in writing setting out the nature of the dispute and the outcome sought. The party who refers the dispute to the Council must satisfy it that a copy of the referral has been served on all the other parties to the dispute. The Council must attempt to resolve the dispute through conciliation within 30 days from the date of the Council receiving a written referral of the dispute: Provided that if the dispute arose from negotiations for the purpose of reaching a collective agreement in the Council, the Council must attempt to resolve the dispute through conciliation within 30 days from the date of the nature of the dispute first being minuted in the Council. The parties to the dispute may agree in writing to extend the 30-day period.
- (b) Disputes about the interpretation or application of this Collective Agreement concluded in the Council must be dealt with by the Council: Provided that unfair dismissal disputes must be dealt with by the Council.
- (c) The Council, or accredited conciliator appointed by it must, during the conciliation proceedings, attempt to resolve the dispute, which may include:
  - (i) mediating the dispute, and/or appointing a conciliator from the panel to conciliate the dispute;
  - (ii) conducting a fact-finding exercise; and
  - (iii) making a recommendation to the parties which may be in the form of an advisory arbitration award.
- (d) In the conciliation proceedings a party to the dispute may appear in person or be represented only by a member, an office-bearer or official of that party's trade union or employers' organisation and, if the party is a juristic person, by a director or an employee.
- (e) When the conciliation has failed, or at the end of the 30-day period, or any further period agreed between the parties in writing, the Secretary of the Council must issue a certificate stating whether or not the dispute has been resolved.

## (4) Adjudication of certain disputes by the Council

- (a) If the dispute remains unresolved after conciliation, the Council must—
  - (i) arbitrate the dispute if any party to the dispute has requested the Council in writing that it be resolved through arbitration, and—
    - (aa) the Act requires arbitration; or
    - (ab) the dispute relates to an unfair dismissal for which the Act permits the dispute to be referred to the Labour Court, save in respect of a dismissal which the employer alleges is—
      - (A) based on the employer's operational requirements; or
      - (B) for participating in or supporting or indicating an intention to participate in or support a strike or protest action; which must be dealt with in terms of clause 14(4)(a)(ii) below;
    - (ac) the dispute relates to the interpretation, application or enforcement of any collective agreement concluded in the Council; or
    - (ad) all the parties to the dispute consent, in writing, to arbitration being conducted under the auspices of the Council in terms of clause 14(6).
  - (ii) Subject to clause 14(4)(a)(i)(ab) above, refer the dispute to the Labour Court if the Act requires the dispute to be referred to the Labour Court and any party to the dispute has requested the Council in writing to refer the dispute on its behalf to the Labour Court.

Parties shall not be entitled to refer the disputes identified in clause 14(4)(a)(i)(ab) and (ac) to the Labour Court or Labour Appeal Court.

## (5) Appointment of Conciliation and Arbitration Panel

- (a) The conciliator or arbitrator appointed must be selected from the panel appointed by the Council. An employee of the Council shall be eligible for appointment to the panel: Provided that, should the Council have an interest in the dispute to be conciliated and/or arbitrated, employees of the Council will not be eligible to arbitrate the dispute.
- (b) The panel shall consist of six conciliators and/or arbitrators, and all parties to the Council must attempt to reach agreement on the persons to be appointed to the Panel. In the event that the parties to the Council cannot agree on the appointment of some or all of the conciliators and/or arbitrators, the following process shall be followed:
  - (i) The union parties to the Council must prepare a list of nominees to fill the remaining vacancies on the Panel, and the employer parties to the Council must do likewise;
  - (ii) the list prepared by the parties must be exchanged, and each party must rank the nominees of the other party in order of their preference;



- (iii) in the event of the number of remaining vacancies being an even number, half of the vacancies shall be filled by appointing the nominees most preferred by the union parties from the employer parties' list, and the remaining half by appointing the nominees most preferred by the employer parties from the union parties' list;
    - (iv) in the event that the number of remaining vacancies is an odd number, then the appointments from the parties' list must make up the number of vacancies less one, and the final vacancy shall be filled by inserting the names of the next most preferred nominee from each list into a hat, from which the Secretary of the Council will draw the name of the remaining appointee.
  - (c) Conciliators and/or arbitrators are to be appointed to the panel for a period of two years, after which period they may be re-appointed by agreement between all the parties to the Council. Should any or all of the persons not be re-appointed, all parties to the Council must attempt to reach agreement on the persons to be appointed to the Panel, failing which the remaining vacancies will be filled according to the method described in subclause (5)(a).
  - (d) Despite subclause (5)(a) above, the parties to the Council shall have the power, by unanimous agreement, to replace any conciliator(s) and/or arbitrator(s) on the panel with another person or other persons.
  - (e) Conciliators and arbitrators must be allocated to persons on the Panel on a rotational basis by the Secretary of the Council, unless the parties to the dispute agree upon a conciliator and/or arbitrator from the relevant panel.
- (6) Arbitrations
- (a) The arbitrator, in consultation with the parties to the dispute, must decide the date, time and venue of the arbitration: Provided that, unless the parties agree to an extension or the circumstances warrant it, the date of the arbitration shall be within 14 days of the referral to arbitration by the Council.
  - (b) The Secretary of the Council must serve notices of the date, time and venue of the arbitration on the parties to the dispute.
  - (c) Any party who has a legal interest in the arbitration may apply to the arbitrator to be allowed to intervene in the arbitration. Such intervention may be allowed by the arbitrator, who shall have the power to grant an adverse costs order against that party if such intervention is found by him to be frivolous or vexatious.
  - (d) Subject to subclause (6)(f) below, any party who has a legal interest in the outcome of the arbitration and whose application in terms of subclause (6)(c) above has been granted by the arbitrator, shall have the right to—
    - (i) give evidence;
    - (ii) call witnesses;
    - (iii) question the witnesses of any other party;
    - (iv) address concluding arguments to the arbitrator;
    - (v) be represented by:
      - (aa) a legal practitioner; or
      - (ab) an office-bearer or official of his trade union or employers' organisation and, if the party is a juristic person, by a director or employee thereof:

Provided that if the dispute being arbitrated is about the fairness of a dismissal and the aggrieved employee has alleged that the reasons for the dismissal relates only to the employee's conduct or capacity, the parties are not entitled to be represented by a legal practitioner in the arbitration proceeding unless—

    - (A) the arbitrator and all other parties consent; or
    - (B) the arbitrator concludes that it is unreasonable to expect a party to deal with the dispute without legal representation, after considering—
      - (AA) the nature of the questions of law raised by the dispute;
      - (AB) complexity of the dispute;
      - (AC) the public interest; and
      - (AD) the competence of the opposing parties of their representatives to deal with the arbitration of the dispute.
  - (e) The arbitrator shall have the following powers:
    - (i) To arbitrate the dispute;
    - (ii) to make any appropriate award;
    - (iii) to determine the appropriate form of and the procedure to be followed at the arbitration proceedings;
    - (iv) to make an order as to costs if a party, or the person who represented the party in the arbitration proceedings, acted in a frivolous or vexatious manner—
      - (aa) by proceeding with or defending the dispute in the arbitration proceedings;
      - (ab) in its conduct during the arbitration proceedings;

which costs order must be limited to the amount of the Council's cost of dealing with the dispute.

- (v) to make an award in the absence of a party if—
  - (aa) the party fails to appear in person or be represented at the arbitration proceedings; and
  - (ab) proof is presented that such party has been notified of the proceedings; notice of the arbitration proceedings shall be deemed to have been given if proof is presented that written notification has been forwarded to such party by—
    - (A) registered mail to such party's last-known address and 14 days have elapsed since such notification has been mailed; or
    - (B) fax transmission to such party's last-known fax number; or
    - (C) hand delivery to such party's last-known business or residential address; or
  - (ac) prima facie evidence has been presented to justify such an award;
- (vi) to vary, rescind or amend any arbitration award made by him, on good cause shown or of his own accord; and without limiting the generality hereof, the arbitrator shall have this power if—
  - (aa) the award was erroneously sought or erroneously made in the absence of any party affected by the award;
  - (ab) the award is ambiguous or contains an obvious error or omission;
  - (ac) the award is granted as a result of a mistake common to the parties to the proceedings.
- (f) The arbitrator may conduct the arbitration in the manner the arbitrator considers appropriate in order to determine the dispute fairly and quickly, but must deal with the substantial merits of the dispute with the minimum of legal formalities.
- (g) In making the awards referred to in this clause, the arbitrator shall be bound by—
  - (i) Labour Appeal Court precedents; and if there are none, by
  - (ii) Labour Court precedents.
- (h) Any award made by the arbitrator is final and binding on the parties to the dispute.
- (i) The Council must serve the award, together with any reasons, on all interested parties.
- (j) Any party or the Secretary of the Council may apply to make the arbitration award an order of the Labour Court in terms of section 158(1) of the Act.
- (k) Except for subclause (6)(c), the parties to a dispute may agree in writing to amend or vary any of the provisions of this clause.
- (l) In addition to the rights of review provided for in the Arbitration Act, 1965 (Act No. 42 of 1965), any party to any arbitration in terms of the Agreement is entitled to the right of review to the Labour Court provided for in the Act.
- (7) Disputes involving non-parties to the Council
  - (a) If the Minister of Labour extends this Collective Agreement concluded in the Council to non-parties to the Council in terms of section 32 of the Act, then disputes involving non-parties to the Council must be dealt with in terms of the above disputes procedure, subject to Council's accreditation.
  - (b) If the Collective Agreement concluded in the Council is not extended to non-parties, then the following procedure shall apply:
    - (i) If a dispute is referred to the Council in terms of the Act and any party to that dispute is not a party to the Council, the Council must attempt to resolve the dispute through conciliation; and
    - (ii) if the dispute remains unresolved after conciliation, the Council must arbitrate the dispute if—
      - (aa) the Act requires arbitration and any party to the dispute has requested that it be resolved through arbitration; or
      - (ab) all the parties to the dispute consent to arbitration under the auspices of the Council.

## 15. EXEMPTIONS

### A. For any Business Entity registered with and falling within the Council's registered scope:

- (1) Any business entity registered with and falling within the Council's registered scope may apply to the Council for exemption from any or all of the provisions of this Agreement.
- (2) All applications for exemption shall be made in writing, on an application form provided by the Council. The applicant shall annex a copy of its Council Registration Certificate to the application and shall address the application to the Secretary of the Council for consideration by the Council.
- (3) All applications for exemption must be fully motivated and supported by any relevant documentation and, in addition, must contain the following information:
  - (a) The period for which the exemption is sought;
  - (b) the number of employees affected;
  - (c) the clauses and subclauses of this Agreement from which the exemption is requested;

- (d) satisfactory proof that the exemption applied for has been discussed between the employer, the employees affected and/or their respective representatives, including the response resulting from such discussions either in support of or in opposition to the application.
- (4) If the exemption application is expressed by the applicant to be urgent, the Secretary shall examine the application to determine whether it is urgent. If the Secretary decides that the application is urgent, then he shall refer the application to the chairperson of the Council, who shall convene a meeting of the Council within seven days of receipt of the application from the Secretary to consider the application. If the Secretary decides that the application is not urgent, then he shall deal with it in the ordinary course as set out below.
- (5) The Secretary of the Council shall place the full exemption application before the appropriate meeting of the Council for its consideration, including any background information which may be required and which the Secretary of the Council can provide.
- (6) The Council may, after considering the application, including any urgent application, in terms of the provisions and criteria outlined in this Agreement grant, partially grant or reject such application for exemption and may impose any conditions on the granting or partial granting of any application as it deems fit under the circumstances.
- (7) The appropriate Council meeting shall consider all applications for exemption having regard to all relevant information, and in particular to—
- (a) the written and verbal (if any) motivation provided by the applicant, and supporting documentation;
  - (b) the extent of discussion between employer and employees affected and their respective representatives where applicable, including the responses of these persons to the application;
  - (c) the terms of the exemptions sought, including the period thereof;
  - (d) any possible infringement of basic conditions of employment rights which may result if the exemption is granted;
  - (e) whether or not a competitive advantage will be afforded to the applicant should the exemption be granted; including its broader impact on the Industry as a whole and on other stakeholders within the Industry who may be disadvantaged by the granting of an exemption;
  - (f) if the exemption sought is from any employee benefit fund or training provision, the sufficiency of the alternative benefit or provisions proposed by the applicant, including such factors as the cost to the employee, transferability, administration, management, costs, growth and stability;
  - (g) the extent to which the proposed exemption may undermine collective bargaining and labour peace in the Industry or the sector concerned;
  - (h) any existing special financial, economic or other circumstances which are put forward by the applicant as reasons warranting the granting of the exemption: Provided that the Council may require the disclosure of such relevant, verifiable information as it may deem fit in this regard;
  - (i) the current status of the business entity and/or its shareholders, directors and owners within the Industry, including its period of operation, and in particular whether or not the entity is a new emerging enterprise;
  - (j) the current status of the business entity vis-à-vis the Council, including whether any levies or contributions to benefit funds are outstanding, and any previous exemptions which may have been granted by the Council;
  - (k) any representations made by the employees and/or their representatives, the Council and/or parties to the Council as contemplated in subclauses (3)(d) and (5) above;
  - (l) any possible alternatives which may be acceptable to the applicant and/or any other interested party in the circumstances;
  - (m) the cost, efficiency and administration of any conditions which the Council may feel necessary to impose, and the re-evaluation thereof.
- (8) The Council shall notify an applicant of its decision within 14 days of such decision having been reached.
- (a) If the application has been granted, the Council shall specify the following in its notification to the applicant:
    - (i) The conditions, if any, of its approval of the application;
    - (ii) the period for which the exemption is to be valid;
    - (iii) the clauses or subclauses of the Agreement for which the exemption is granted.
  - (b) On receipt of a written request, the Council shall provide reasons for its decision to grant the exemption to any party which has an interest in the matter.
  - (c) If the application for exemption is rejected, the Council shall provide concise reasons for such rejection to the applicant within 14 days of the date of its decision.
- (9) Any decision of the Council to reject, partially grant or withdraw an application may be referred by the applicant to the Independent Exemptions Board (styled the Exemptions Board), hereby established in terms of the Act and the Constitution of the Council and the provisions of subclauses (1) to (8) above shall *mutatis mutandis* apply when appeals are heard and decided upon by the Exemptions Board.



B. For any employer who is a party or a member of a party to the Council and its employees represented by a trade union representative

(1) (a) Exemption from the provisions of Regional Bargaining Council Agreements will be granted in the following circumstances:

(i) Where the employer, who is a party or a member of a party to the Council and its employees, represented by a trade union representative as defined in the Act have concluded a collective agreement in accordance with the procedure set out in subclause (2) below to vary such provisions: Provided that—

(aa) the collective agreement does not contravene the minimum employment standards in the Council's Main Collective Agreement, any law or the provisions of the Agreement dated 25 May 1993 between the Cape Clothing Manufacturers' Association, the Cape Knitting Industry Association, the Garment Manufacturers' Association of the Western Cape, the Eastern Province Clothing Manufacturers' Association, the Natal Clothing Manufacturers' Association, the Free State and Northern Cape Clothing Manufacturers' Association, the Transvaal Clothing Manufacturers' Association (incorporating the Transvaal Knitters' Association) and the Southern African Clothing and Textile Workers' Union;

(ab) wage rates and contributions to social funds including the Council's fund may not be amended without the Council's approval.

(ii) where the Exemptions Board established by the Council requires the Council to do so after granting an application for exemption;

(iii) on application by an employer employing five or fewer employees.

(e) An application for exemption must be made to the Council in accordance with the Council's exemption procedure as provided for in subclauses (2) and (3) of A above.

(2) An employer who is a party or a member of a party to the Council shall implement the following procedure in order to conclude a collective agreement as set out in subclause (1)(a)(i) above:

(a) The employer shall place on the notice board of the establishment a notice to employees specifying the proposed variation to the Council's Main Collective Agreement. At the same time a copy of the notice shall be sent to the union.

(b) A meeting shall take place at the establishment in order to reach agreement on the proposed variation, which agreement shall be reduced to writing. In the absence of agreement, the employer undertakes not to refer an application for exemption to the Exemptions Board established by the Council.

(c) The agreement shall be referred to the Council for registration and any agreement concluded in terms of 1(a)(i) above that is in contravention of any law or the minimum employment standards set out in the Council's Main Collective Agreement shall be null and void *ab initio*.

#### 16. MONTHLY PAYMENTS OF CONTRIBUTIONS

Notwithstanding the provisions contained in clauses 4(2), 5(2), 6(3), 7(2), 8(2), 9(5), 10(2) and 11 of this Agreement, any employer who deposits an amount equal to 30 per cent of a qualified machinist's wage per employee with the Council, or lodges with the Council a banker's guarantee in favour of the Council for such amount shall, subject to the approval of the Council, be permitted to submit the contributions due in terms of the clauses referred to not later than the 10th day of the month following the month during which the weekly deductions and contributions fall due.

#### 17. SACTWU EDUCATION BURSARY SCHEME

(1) Every employer to whom this Agreement applies shall each week contribute 20c for each employee in his employ to the SACTWU Education Bursary Scheme. The total amount shall be submitted to the Secretary of the Council, PO Box 5101, Johannesburg, 2000, within seven days of the end of the week in which the contributions fall due.

(2) The total amount so collected by the Council, less such amount as shall be agreed upon by the parties as a collection fee, shall be forwarded to the SACTWU Finance Department, PO Box 18359, Dalbridge, 4014, by not later than the 15th day of the following month, together with an analysis of the amounts as received from employers.

Signed at Johannesburg this 10th day of May 1999.

**R. MOYA**

Chairman

**P. JAFF**

Vice Chairman

**A. MARGOLIS**

General Secretary

Doc/AM/pm/Fund Collective Agreement 03.05.1999

**ANNEXURE A**

Please complete and return to:

**CLOTHING INDUSTRY PROVIDENT FUND (NORTHERN AREAS)**

Service Card No .....

**NOMINATION OF BENEFICIARY TO RECEIVE BENEFITS**

I, Mr/Mrs/Miss (full name in block letters) .....  
 residing at.....  
 hereby appoint as my beneficiary(ies):

Full name(s) and exact relationship of beneficiary(ies)	Proportion to be paid	Present address(es) of beneficiary(ies)

in terms of clause 9(6)(b) of the Collective Agreement and the rules of the Provident Fund to receive any benefit which may accrue from the said Fund by reason of my death, and I agree that no alteration in the nomination of the beneficiary(ies) shall be recognised by the Provident Fund unless notification thereof has been given by me in writing to the Secretary of the Bargaining Council, P.O. Box 5101, Johannesburg, 2000.

**ANNEXURE B**

**CLOTHING INDUSTRY BARGAINING COUNCIL (N. AREAS)**  
**1st Floor, Garment Centre, 148 Kerk Street, Johannesburg 2001**

P.O. Box 5101, Johannesburg 2000

Tel: 402-2737

Fax: 402-7375

**WEEKLY RETURN FOR WEEK-ENDING: ...../...../.....**

(Form to be completed in terms of clauses 4 to 11 of the Fund Collective Agreement)

Name of factory .....

Name of Fund	Employee's Contribution	Employer's Contribution	No. of Employees	Total R c
Medical Benefit Soc @	R6,00	R6,00		
Sick Pay Fund @	1,05	1,05		
Bargaining Council @	0,25	0,25		
Slack Pay Fund @	0,15	0,15		
Training Board @	Nil	(1,75 + VAT)		
Provident Fund 4,5% of Prescribed wage				
Bursary Fund	Nil	0,20		
		TOTAL FOR	ALL FUNDS	

## ANNEXURE C

**CLOTHING INDUSTRY BARGAINING COUNCIL (NORTHERN AREAS)**  
First Floor, Garment Centre, 148 Kerk Street, JOHANNESBURG 2001  
P.O. Box 5101, JOHANNESBURG 2000

## CONTRIBUTION LIST

Checking for receipting.....	Adds.....
Receipting.....	Lefts.....
Statistics .....	Filing .....

Before filing, check that list has been through all departments.

[illegible]

Contributions shall be paid weekly unless exemption has been granted to your firm.  
This return shall be submitted before the 10th day of the month following the month to which it relates.



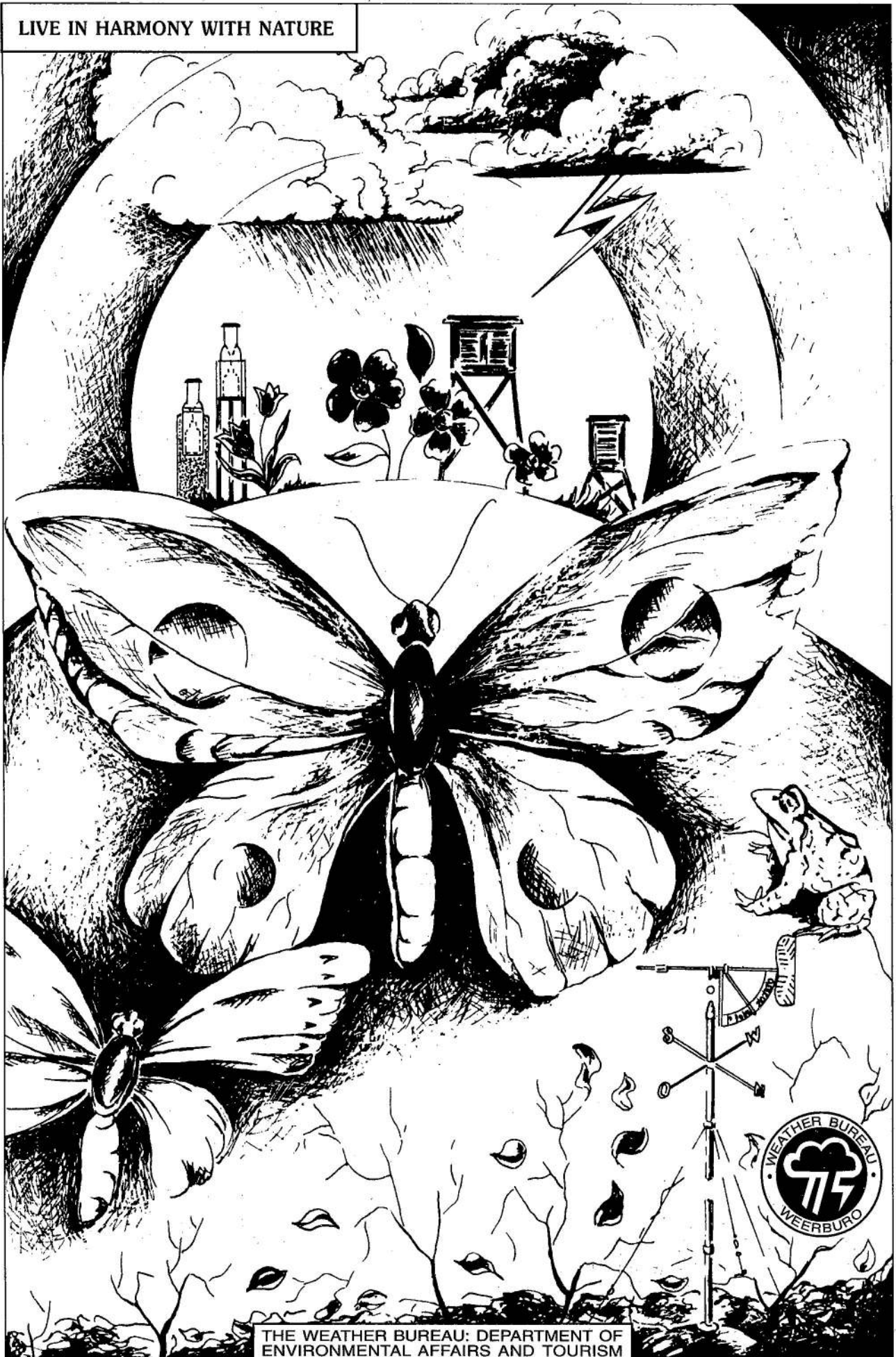


# THE WEATHER BUREAU HELPS FARMERS TO PLAN THEIR CROP



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

LIVE IN HARMONY WITH NATURE



THE WEATHER BUREAU: DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM



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