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OF
SOUTH AFRICA



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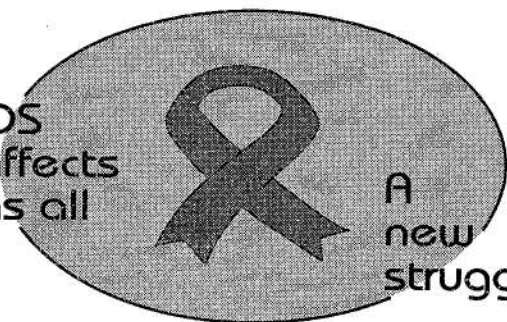
Vol. 412

PRETORIA, 8 OCTOBER 1999
OKTOBER

No. 20509

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

Prevention is the cure

**AIDS
HELPLINE**

0800 012 322

DEPARTMENT OF HEALTH

GOVERNMENT NOTICES

GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF HEALTH

DEPARTEMENT VAN GESONDHEID

No. R. 1166

8 October 1999

HEALTH PROFESSIONS COUNCIL OF SOUTH AFRICA

REGULATIONS RELATING TO IMPAIRMENT IN STUDENTS AND PRACTITIONERS REGISTERED IN TERMS OF THE HEALTH PROFESSIONS ACT, 1974

The Minister of Health intends, in terms of section 61(1), read with section 51 of the Health Professions Act, 1974 (Act No. 56 of 1974), in consultation with the Health Professions Council of South Africa, to make the regulations in the Schedule hereto.

Interested persons are invited to submit any substantiated comments or representations on the proposed regulations to the Director-General of Health: Private Bag X828, Pretoria, 0001 (for the attention of the Director: Human Resource Development), within two months of the date of publication of this notice.

SCHEDULE

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Definitions

1. In these regulations any expression to which a meaning has been assigned in the Act shall bear such meaning and, unless the context otherwise indicates—

“**assessment**” means the informal process conducted by the committee to establish whether a student or practitioner is impaired or not and which takes place with his or her voluntary co-operation;

“**board**” means a professional board established by Government Notice No. R. 75 of 16 January 1998;

“**chairperson**” means the chairperson of the committee;

“**committee of preliminary inquiry**” means a committee established by a board in terms of section 15 (5) (f) of the Act to undertake preliminary inquiries into complaints of alleged unprofessional conduct.

“**examination**” means a medical evaluation of a person by the appropriate physical, psychiatric and psychosocial means required to determine the person's impairment or otherwise;

“**health assessor**” means an appropriately qualified medical expert to advise the committee during an investigation on clinical matters.

“**health examiner**” means a practitioner appointed by the chairperson or the committee, as the case may be, to examine and report to the committee on the alleged impairment of a student or practitioner;

“**investigation**” means the formal process conducted by the committee to establish whether a student or practitioner is impaired or not in the absence of his or her voluntary co-operation or to deal with the conditions of registration or practice imposed on him or her in terms of regulations 8, 9, 12, 13, 14, 15, 34, 35 or 39;

“**management**” means the administrative and clinical steps required to be taken by the committee to implement these regulations;

“**practioner**” means a person registered in terms of the Act to practise in a profession for which the Act provides;

“**professional conduct committee**” means a committee established by a board in terms of section 15(5)(f) of the Act to conduct an inquiry into alleged unprofessional conduct on the part of a registered person;

“**register**” means a register established and kept by the registrar in terms of section 18 of the Act;

“**registrar**” means the registrar appointed under section 12 of the Act;

“**supervisor**” means a practitioner or a person approved and appointed by the committee to supervise and report to the committee in terms of these regulations on a student or practitioner who was found to be impaired;

“**student**” means a person registered as such in terms of the Act;

“**the Act**” means the Health Professions Act, 1974 (Act No. 56 of 1974);

"the committee" means a health committee established by a board in terms of section 15 (5) (f) of the Act and may include a joint committee established in terms of section 15B (1) (f) of the Act;

"therapist" means a medical practitioner or another professional person who holds appropriate registration, nominated by an impaired student or practitioner and approved by the committee to take responsibility for such student or practitioner's treatment and to submit reports to the committee thereon, as well as on his or her fitness to practise.

ASSESSMENT BY THE COMMITTEE

Information

2. The registrar shall, if he or she receives information regarding a student or practitioner which indicates possible impairment, submit such information in writing to—

- (a) the chairperson during intervals between meetings of the committee or where the urgency of the matter requires immediate action; or
- (b) the committee at its next meeting.

3. On receipt of the information referred to in subregulation (1), the chairperson or the committee may cause such inquiries to be made in relation to the matter as is deemed necessary.

4. If the chairperson or the committee deems it necessary to take the matter further, the chairperson or the committee shall instruct the registrar to write to the student or practitioner—

- (a) notifying him or her that information had been received which alleges that he or she may be impaired;
- (b) either—
 - (i) requesting him or her to submit to an examination by the health examiner or examiners, as the case may be, who will furnish the committee with an individual or combined report after such an examination on the alleged impairment; or
 - (ii) if the information received by the registrar includes reports on such a student or practitioner by one or more medical practitioners who recently examined him or her and it appears to the chairperson or the committee that such reports contain sufficient medical evidence that such a student or practitioner is impaired, informing him or her accordingly;
- (c) informing him or her that he or she could, in addition to the reports referred to in paragraph (b), submit one or more other reports by medical practitioners of his or her own choice on the alleged impairment;
- (d) inviting him or her to submit any observation or other evidence which he or she may wish to offer regarding the alleged impairment; and
- (e) informing him or her that, if he or she refuses to be examined or if, having agreed, he or she subsequently fails to submit to the examination referred to in paragraph (b) (i), the matter may be referred forthwith to the committee for an investigation.

5. The registrar shall enclose in the letter referred to in regulation 4, a summary of the information received by him or her and may enclose copies of any reports referred to in regulation 4 (b) (ii).

Examination

6. The registrar shall submit the information and reports referred to in regulation 2 and 4 to the health examiners and request them to report to the committee—

- (a) on the student or practitioner's alleged impairment;
- (b) on the fitness of the student or practitioner to practise, either generally or on a limited basis; and
- (c) on their recommendations, if any, as to the management of the student or practitioner's case.

Action following reports on examination

7. The registrar shall submit copies of the reports by the health examiners referred to in regulation 4 (b) (i), including any reports by medical practitioners referred to in regulation 4 (b) or (c), to—

- (a) the chairperson during the intervals between the meetings of the committee or where the urgency of the matter requires immediate action; or
- (b) the committee at its next meeting.

8. If the health examiners and medical practitioners referred to in regulation 4—

- (a) report unanimously that the student or practitioner—
 - (i) is impaired and not fit to practise;
 - (ii) is impaired and not fit to practise except on a limited basis or under supervision or both; or
 - (iii) suffers from a recurring or episodic physical or mental condition which, although in remission at the time of the examination, may be expected in future to render him or her unfit to practise or unfit to practise except on a limited basis or under supervision or both.

the chairperson or the committee shall make a finding on the matter and resolve on the further management of the case and, thereupon, direct the registrar to inform the student or the practitioner in writing accordingly.

- (b) do not report unanimously as referred to in paragraph (a), the chairperson or the committee shall make a finding on the matter as is deemed appropriate in the light of the balance of opinion in the reports submitted and resolve on the further management of the case, including any limitations on the student or practitioner's registration or practice and thereupon direct the registrar to inform the student or the practitioner in writing accordingly.
- (c) report unanimously that the student or practitioner is not impaired, the committee shall make a finding on the matter and direct the registrar to inform the student or the practitioner in writing accordingly.

9. In case of regulation 8 (a) and (b), the registrar shall request the student or practitioner to state in writing before a date determined by the registrar whether he or she is prepared to undertake voluntarily to comply with the resolutions of the chairperson or the committee on the management of his or her case, including any limitations on his or her registration or practice which the chairperson or the committee may have imposed.

10. Any matter which was dealt with by the chairperson as referred to in regulation 7, shall be submitted by the registrar to the committee at its next meeting for confirmation of the chairperson's actions or amendment thereof as the committee may require.

11. If, by a specified date referred to in regulation 9, the student or practitioner undertakes to comply with the resolution regarding the management of his or her case, including any imposed limitations on his or her registration or practice, the committee may then, if satisfied that the undertaking is being observed by the student or practitioner, postpone further action on the case and cause the student or practitioner to be so informed.

12. If the student or practitioner—

- (a) does not by the specified return date referred to in regulation 9 or such further period as the registrar may allow, undertake to comply with the resolutions as to the management of his or her case, including any limitations on his or her registration or practice; or
- (b) if the student or practitioner does not reply by the specified date referred to in regulation 9 to any letter sent to him or her for the purpose of regulation 9; or
- (c) refused or failed to submit to the examination referred to in regulation 4 (b) (i),

the committee may order the registrar to arrange for an investigation.

13. If it appears to the committee from the reports of the health examiners referred to in regulation 6 and any medical practitioners referred to under regulation 4 (c), or from any other information which the committee has received, that the condition of the student or practitioner is such that he or she would not be able to give an undertaking as contemplated in regulations 11 or 12, or that he or she could not be relied on to comply with such an undertaking, the committee may—

- (a) order the registrar to arrange for an investigation; or
- (b) decide to deal with the matter in another appropriate fashion.

14. If, as a result of a report a therapist, supervisor or other information, it appears to the committee that the resolutions referred to in regulation 8 with which a student or practitioner has undertaken to comply, should be amended or should cease to apply, the committee may amend its resolutions as appears to be appropriate or may direct that they be revoked and inform the student or practitioner in writing accordingly.

15. If, as a result of a report from a therapist, supervisor or other information, it appears to the committee either that the student or practitioner has ceased to observe an undertaking referred to in regulation 11, or that his or her physical or mental condition has otherwise deteriorated, the committee may—

- (a) order the registrar to arrange for an investigation; or
- (b) decide to deal with the matter in another appropriate fashion.

Committee of preliminary inquiry or professional conduct committee

16. If the committee, as a result of a report or other information, is of the view that there are sufficient reasons to suspect that a student or practitioner may be guilty of unprofessional conduct and that it is therefore necessary to refer the matter to the committee of preliminary inquiry, the committee may direct the registrar to submit the case to such committee.

17. (1) Where a case has been referred to the committee by a committee of preliminary inquiry or a professional conduct committee, the committee may, if it deems fit, direct the registrar to request the student or practitioner to submit to an examination referred to in regulation 4, before his or her case is considered by the committee in terms of these regulations.

(2) If a student or practitioner agrees to submit to an examination referred to in regulation 4, the registrar shall submit any reports received to the committee, together with the information on which the committee of preliminary inquiry or the professional conduct committee, as the case may be, decided to refer the case.

EMERGENCIES

18. Whenever it appears to the registrar from information received by him or her that there are sufficient grounds to suspect that patient care and safety would be seriously endangered if the student or practitioner referred to in such information was to be permitted to continue to practice, the matter may be dealt with by the registrar as an emergency and be referred to the chairperson as such.

19. An emergency shall be dealt with by the chairperson (or a member of the committee nominated for that purpose) through the temporary suspension of such student or practitioner from practice, pending a proper assessment or investigation of the matter and a finding and resolution by the committee thereon.

20. If the student or practitioner appears to be non co-operative and non compliant with an instruction referred to in regulation 19, the committee may instruct the registrar to have an urgent application submitted to the relevant high court to enforce such temporary suspension in the interest of proper and safe patient care.

INVESTIGATION BY THE COMMITTEE

Notice of investigation

21. As soon as practicable after a case has been referred for an investigation, the registrar shall serve on the student or practitioner concerned a notice which shall—

- (a) indicate the physical or mental condition by reason of which it is alleged that he or she is impaired;
- (b) inform him or her that the matter has been referred to the committee to determine whether he or she is so impaired and, if so, to take appropriate action for the management of his or her case;
- (c) state the day, time and place of the investigation; and
- (d) request the student or practitioner to attend the investigation and inform him or her that he or she could be represented by his or her legal representative, medical adviser or both.

Postponement of investigation

22. The chairperson may, if he or she deems fit, postpone the investigation to such later date or such later meeting of the committee as he or she may determine.

23. The registrar shall, as soon as practicable, notify the student or practitioner in writing of any decision to postpone an investigation and shall inform him or her at that time or as soon thereafter as practicable of the revised arrangements for the investigation.

Circulation of evidence

24. Before the meeting of the committee, the registrar shall send to each member of the committee a copy of—

- (a) the notice referred to in regulation 21;
- (b) the information referred to in regulation 2 and the documents referred to in regulation 4.

Health assessors

25. The chairperson may instruct the registrar to arrange for one or more health assessors to attend any meeting of the committee where a case is considered in accordance with these regulations in order to advise the committee on any relevant clinical matter.

Accessibility of investigation

26. The committee shall sit *in camera*.

27. The student or practitioner shall be entitled to be present while his or her case is considered and may be represented by his or her legal representative, medical adviser or both and may be accompanied by any member of his or her family or by a friend: Provided that this regulation shall not entitle the student or practitioner to be accompanied into the room where the meeting takes place by any person from whom oral evidence is to be required.

28. Where the student or practitioner is neither present nor represented, the committee may—

- (a) proceed with the investigation if the committee is satisfied that all reasonable efforts had been made in compliance with regulation 21 to serve the notice;
- (b) consider the student or practitioner's alleged impairment on the basis of the reports, written statements and other documents circulated to members in accordance with regulation 24.

Adjournment for further medical reports

29. The committee may adjourn an investigation in order to refer the alleged impaired student or practitioner for an examination and to obtain further medical reports or other information as to his or her physical or mental condition or in relation to his or her fitness to practise.

Postponement of finding

30. If the committee deems fit to do so, it may postpone the making of a finding on the student or practitioner's impairment or fitness to practice and may specify the conditions of such postponement.

Resolutions of the committee

31. If the committee deems fit to do so, it shall make a finding as to whether the student or practitioner is to be regarded as being impaired by reason of his or her physical or mental condition or not.

32. In reaching its finding, the committee shall be entitled to regard as a current impairment—

- (a) the student or practitioner's current physical or mental condition;
- (b) a continuing and episodic physical or mental condition; or
- (c) a condition which, although currently in remission, may be expected to cause recurrence of impairment.

33. Where a student or practitioner has refused or, in the opinion of the committee, has failed to submit to an examination referred to in regulation 4 (b) (i), the committee shall be entitled, if it deems fit, to find that the student or practitioner is impaired on the basis of—

- (a) information before the committee as referred to in regulation 28 (b); and
- (b) the student or practitioner's refusal or failure to submit to such an examination.

34. If the committee finds the student or practitioner to be impaired by reason of his or her physical or mental condition, the committee shall next consider and determine whether to resolve that his or her registration and the practising of his or her profession should be conditional for the protection of patients or in his or her own interests and what the nature of such conditions will be, and the committee may impose more than one condition under this regulation.

35. If the committee is of the view that it is unsufficient to impose conditions on the student or practitioner's registration or practising of his or her profession, the committee may resolve that the registration of the student or practitioner shall be suspended, the period of such suspension and the condition thereof.

36. Where, in a case referred to the committee by a professional conduct committee, an order had been made by that committee for interim suspension or interim conditions of registration of practice to be in force, or where an order made under these regulations by a professional conduct committee is in force, the committee may—

- (a) revoke such an order; or
- (b) revoke or amend any condition of registration or practice imposed by such an order.

Notification of decisions of committee

37. After the committee made a finding, adopted a resolution or amended or revoked such resolution under these regulations, the chairperson shall forthwith direct the registrar to inform the student or practitioner in writing thereof and of his or her right to appeal against such finding, resolution or both.

Medical examiners and medical assessors

38. In choosing health examiners or health assessors in relation to particular cases, the chairperson or the committee shall have regard to the nature of the physical or mental condition which is alleged to impair the student or practitioner.

POWERS OF THE COMMITTEE

39. In terms of these regulations the committee shall have the following powers:

- (a) To make a finding on whether or not a student or practitioner is impaired based on an assessment or investigation in terms of these regulations.
- (b) To resolve on the management of a student or practitioner found to be impaired with regard to the securing of patient safety and treatment or rehabilitation of such student or practitioner.
- (c) To impose any condition of registration or practice which the committee regards to be appropriate to achieve the objects referred to in paragraph (b), which may include conditions with regard to—
 - (i) his or her status as a registered person;
 - (ii) the locality of his or her practice;
 - (iii) the scope of his or her practice;
 - (iv) permission to handle scheduled substances such as the purchasing, acquiring, keeping, using, administering, prescribing, ordering, supplying or possessing of any or all of the substances scheduled in terms of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965);
 - (v) prohibition on the use or abuse of independence-producing substances scheduled in the Regulations made under the Prevention and Treatment of Drug Dependency Act (Act No. 20 of 1992), published as Government Notice No. R. 721 of 30 April 1993, including drugs other than medicine, such as alcohol and the other so-called "drugs of leisure";
 - (vi) ensuring and securing the treatment and rehabilitation of the impaired student or practitioner;
 - (vii) securing supervision of the fitness to practise and performance of the impaired student or practitioner.

40. A condition which is imposed by the committee on a student or practitioner found to be impaired shall—

- (a) be subject to reports to be submitted by the relevant therapist or supervisor or both to the committee at the intervals specified by the committee to ensure that the objectives referred to in regulation 39 (b) are being achieved;
- (b) be subject to review by the committee and the position of each impaired student or practitioner be so revised at least every three years.

41. A review of conditions of registration or practice referred to in regulation 40 (b) may at any time be—
- (a) requested by the impaired student or practitioner;
 - (b) recommended by the impaired student or practitioner's supervisor or therapist; or
 - (c) brought about by the committee itself on the basis of reports referred to in regulation 40 (a).

M. E. TSHABALALA-MSIMANG

Minister of Health

Date: 99-09-20.

**DEPARTMENT OF LABOUR
DEPARTEMENT VAN ARBEID**

No. R. 1168

8 October 1999

LABOUR RELATIONS ACT, 1995

CANCELLATION OF GOVERNMENT NOTICE

**METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL:
EDUCATION AND TRAINING FUND COLLECTIVE AGREEMENT**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby, in terms of section 32 (7) of the Labour Relations Act, 1995, cancel Government Notice No. R. 653 of 8 May 1998, with effect from 18 October 1999.

M. M. S. MDLADLANA

Minister of Labour

No. R. 1168

8 Oktober 1999

WET OP ARBEIDSVERHOUDINGE, 1995

INTREKKING VAN GOEWERMENTSKENNISGEWING

**METAAL- EN INGENIEURSNYWERHEDE BEDINGINGSRAAD: OPVOEDKUNDIGE- EN
OPLEIDINGSFONDS KOLLEKTIEWE OOREENKOMS**

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, trek hierby, kragtens artikel 32 (7) van die Wet op Arbeidsverhoudinge, 1995, Goewermentskennisgewing No. R653 van 7 Mei 1998 in, met ingang van 18 Oktober 1999.

M. M. S. MDLADLANA

Minister van Arbeid

No. R. 1169

8 October 1999

LABOUR RELATIONS ACT, 1995

**METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL: EXTENSION OF EDUCATION AND
TRAINING FUND COLLECTIVE RE-ENACTING AND AMENDING 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 Metal and Engineering Industries Bargaining Council 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 18 October 1999 and for the period ending 31 March 2000.

M. M. S. MDLADLANA

Minister of Labour

No. R. 1169

8 Oktober 1999

WET OP ARBEIDSVERHOUDINGE, 1995

**METAAL- EN INGENIEURSNYWERHEDE BEDINGINGSRAAD: UITBREIDING VAN OPVOEDKUNDIGE- EN
OPLEIDINGSFONDS KOLLEKTIEWE HERBEKRAGTINGS- EN WYSIGINGSOOREENKOMS 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 Metaal- en Ingenieursnywerhede Bedingingsraad 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 18 Oktober 1999 en vir die tydperk wat op 31 Maart 2000 eindig.

M. M. S. MDLADLANA

Minister van Arbeid

Nota: 'n Afrikaans vertaling van die ooreenkoms by die Engelse kennisgewing is beskikbaar by die Raad.

SCHEDULE

METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL

METAL AND ENGINEERING INDUSTRIES

EDUCATION AND TRAINING FUND COLLECTIVE AGREEMENT

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

Association of Electric Cable Manufacturers of South Africa

Border Industrial Employers' Association

Bright Bar Association

Cape Engineers' and Founders' Association

Constructional Engineering Association (South Africa)

Covered Conductor Manufacturers' Association

Electrical Engineering and Allied Industries' Association

Electrical Manufacturers' Association of South Africa

Electronics and Telecommunications Industries' Association

Ferro Alloy Producers' Association

Gate and Fence Association

Hand Tool Manufacturers' Association (HATMA)

Iron and Steel Producers' Association of South Africa

Lift Engineering Association of South Africa

Light Engineering Industrial' Association of South Africa

Materials Handling Association

Natal Engineering Industries' Association

Non-Ferrous Metal Industries' Association of South Africa

Plastics Manufacturers' Association of South Africa

Plumbers' and Engineers' Brassware Manufacturers' Association

Port Elizabeth Engineers' Association

Pressure Vessel Manufacturers' Association of South Africa

Radio, Appliance and Television Association of South Africa (RATA)

Refrigeration and Air-Conditioning Manufacturers' and Suppliers' Association

Sheetmetal Industries' Association of South Africa

S.A. Association of Shipbuilders and Repairers

S.A. Electro-Plating Industries' Association

S.A. Engineers' and Founders' Association

S.A. Fasteners Manufacturers' Association (SAFMA)

S.A. Refrigeration and Air-Conditioning Contractors' Association (SARACCA)

S.A. Pump Manufacturers' Association

S.A. Reinforced Concrete Engineers' Association (SARCEA)

S.A. Tube Makers' Association

S.A. Valve and Actuator Manufacturers' Association (SAVAMA)

S.A. Wire and Wire Rope Manufacturers' Association

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

Electronic and Metal Workers' Union of South Africa

Metal and Electrical Workers' Union of South Africa

National Employees' Trade Union

National Union of Metalworkers of South Africa

S.A. Electrical Workers' Association

S.A. Workers' Union

Steel, Engineering and Allied Workers' Union of South Africa (SEAWUSA)

(hereinafter referred to as the "employees" or the "trade unions"), of the other part, being the parties to the Metal and Engineering Industries Bargaining Council.

PART 1

1. SCOPE OF APPLICATION OF AGREEMENT

(1) Any reference in this Agreement to the Republic of South Africa and/or the Provinces of the Cape of Good Hope, the Transvaal, Natal and the Orange Free State shall be deemed to be a reference to the Magisterial District of those areas and/or provinces as they existed immediately prior to the coming into operation of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), and the terms of this Agreement shall be observed—

(a) throughout the Republic of South Africa; and

(b) by all employers in the Iron, Steel, Engineering and Metallurgical Industries who are members of the employers' organisations and by all employees who are members of the trade unions.

(2) Clauses 1 (1) (b), 2 and 3 of Part I of this Agreement shall not apply to employers and employees who are not members of the employers' organisations and trade unions, respectively.

2. PERIOD OF OPERATION OF AGREEMENT

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 Labour Relations Act, 1995, and shall remain in force until 31 March 2000.

3. SPECIAL PROVISIONS

The provisions contained in clause 6 of the Agreement published under Government Notice No. R. 653 of 8 May 1998 (hereinafter referred to as the "Former Agreement") shall apply to employers and employees.

4. GENERAL PROVISIONS

The provisions contained in clauses 3 to 5 and 7 to 8 of Part I and Part II of the Former Agreement shall apply to employers and employees.

5. CLAUSE 3 OF THE FORMER AGREEMENT: DEFINITIONS

(1) In the definition of "Collective Agreements", paragraph (2), delete the expression "Atlantis Diesel Engines (Pty) Limited".

(2) In the definition of "Iron, Steel, Engineering and Metallurgical Industries", substitute the expression "(subject to the provisions of any demarcation determination made in terms of section 62 of the Labour Relations Act, No. 66 of 1995), and section 76 of the Labour Relations Act, 1956)" for the existing expression "(subject to the provisions of any demarcation determinations made in terms of section 62 of the Act)".

(3) In the introductory paragraph of the definition of "Motor Industry" substitute the expression "(subject to the provisions of any demarcation determination made in terms of section 62 of the Labour Relations Act, No. 66 of 1995, and section 76 of the Labour Relations Act, 1956)" for the existing expression "(subject to the provisions of any demarcation determination made in terms of section 76 of the 1956 Act)".

6. CLAUSE 4 OF THE FORMER AGREEMENT: METAL AND ENGINEERING INDUSTRIES

EDUCATION AND TRAINING FUND

Substitute the following for subclause (2):

"(2) The amounts payable each month in terms of this Agreement, together with a statement in such form as may be specified from time to time, shall be forwarded to the Council by not later than the 15th day of the month immediately following, and shall be addressed to: The Financial Manager, Metal and Engineering Industries Bargaining Council (Central Funds Collection Office) P.O. Box 61474, Marshalltown, 2107; or Metal Industries House, Second Office Level, 42 Anderson Street, Johannesburg, 2001.

The employer uses the postal service, a courier service or any other means of delivery or transfer at his own risk. The relevant postal address is P.O. Box 61474, Marshalltown, 2107. A facility for direct bank to bank transfer of funds is also available—enquiries to be directed to the Financial Manager at the above address or (011) 832-2366."

7. CLAUSE 7 OF THE FORMER AGREEMENT: EXEMPTIONS

Substitute the following for the existing clause:

"(1) Exemption

(a) Any person bound by this Agreement may apply for exemption from any provision of this Agreement.

- (b) An application for exemption shall be in writing, fully motivated, and sent to the manager of the Council's regional office for the area in which the applicant is located.
 - (c) An employer applicant shall consult with the workforce through its trade union representatives (or, where there are no trade union representatives, with the workforce itself) as to the need for the exemption and its effect on the employees, and shall include in the application the views expressed by the workforce in this regard.
 - (d) An application for exemption shall not be considered if the contents of the application are covered by an arbitration award binding the applicant.
 - (e) The Council shall issue to every person to whom exemption has been granted an exemption licence, setting out the following:
 - (i) the full name of the person or enterprise concerned;
 - (ii) the provisions of this Agreement from which the exemption has been granted;
 - (iii) the conditions subject to which exemption is granted;
 - (iv) the period of the exemption;
 - (v) the date from which the exemption shall operate; and
 - (vi) the area in which the exemption applies.
 - (f) The Council shall ensure that—
 - (i) all exemption licences issued are numbered consecutively;
 - (ii) an original copy of each licence is retained by the Council;
 - (iii) a copy of the exemption licence is sent to the applicant.
 - (g) Unless otherwise specified in the licence of exemption, any exemption from this Agreement shall be valid only in the region of the Council in which the application was made.
 - (h) The Council may, on good cause shown, give the holder of an exemption licence 30 days' notice of withdrawal of the exemption.
- (2) Process and criteria**
- (a) In considering an application for exemption, the Council shall consider the views expressed by the employer(s) and the workforce, any other representations received in relation to that application and the possible effect of the exemption on competitors.
 - (b) The exemption may not contain terms that would have an unreasonably detrimental effect in the fair, equitable and uniform application of this Agreement in the industry.
- (3) Appeals**
- (a) An independent body, referred to as the Arbitration Board (the Board), is hereby appointed and shall consider, in accordance with the provisions of section 32 (3) (e) and (f) of the Act, any appeal against an exemption granted or refused by the Council, or a withdrawal of an exemption.
 - (b) In considering an appeal the Board shall consider the recommendations of the Council, any further submissions by the employer and the workforce or their respective employee organisations or trade unions and shall take into account the criteria set out above and also any other representations received in relation to the application.
 - (c) The exemption shall not contain terms that would have an unreasonably detrimental effect on the fair, equitable and uniform application of this Agreement in the Industry.
 - (d) Should the appeal be granted a licence of exemption shall be issued in terms of subclauses (1) (e) and (f) and shall be subject to subclauses (1) (g) and (h)".

PART II

8. CLAUSE 1: OF THE FORMER AGREEMENT: DEFINITIONS

Substitute the following for the definition of "apprentice":

"**apprentice**" means a person serving under a current written contract of apprenticeship recognised by the Council or a contract of apprenticeship registered under the Manpower Training Act, 1981, in respect of a trade set out in the definition of "employee" hereunder; and/or a person employed in terms of the Manpower Training Act, 1981, in a trade set out in the definition of "employee" hereunder; and/or a person employed under contract in terms of the provisions of the Artisan Training and Recognition Agreement for the Metal and Engineering Industries, published under Government Notice No. R. 655 of 8 May 1998 or any succeeding publication; and/or a person employed under arrangements recognised by the Council from time to time for the training of artisans;"

9. CLAUSE 2: OF THE FORMER AGREEMENT: LEVY

Substitute the following for the existing clause:

"(1) (a) The monthly levy per employee for the Artisan Training Fund shall be determined in accordance with the undermentioned table, based on the ratio of trainees to employees on the payroll of the employer and/or hired out by him on the last Friday of the calendar month to which payment of the levy refers:

Category	Ratio of trainees to employees	Monthly levy per employee
A	One trainee to 5, or fewer, employees	R16,67
B	One trainee to more than 5 and up to 10 employees	R25,00
C	One trainee to more than 10 and up to 15 employees	R47,21
D	One trainee to more than 15 employees, or no trainees	R66,65

(b) The total amount of the levy payable each month by the employer shall be calculated by multiplying the monthly levy per employee as determined under paragraph (a) by the total number of employees as defined in this Part on the employer's payroll and/or hired out by him on the last Friday of the calendar month to which payment of the levy refers.

(2) The monthly amount payable each month by the employer for the Industry Training Levy shall be determined by the total number of employees on the payroll of the employer and/or hired out by him on the last Friday of the calendar month to which the payment of the levy refers, and shall be 87c per employee."

Signed at Johannesburg, for and on behalf of the parties, this 15th day of January 1999.

J. W. BURGER

Member

D. A. CARSON

Member

D. G. LEVY

Council Secretary

SOUTH AFRICAN REVENUE SERVICE SUID-AFRIKAANSE INKOMSTEDIENS

No. R. 1184

8 October 1999

CUSTOMS AND EXCISE ACT, 1964

AMENDMENT OF SCHEDULE No. 1 (No. 1/1/1009)

Under section 48 of the Customs and Excise Act, 1964, Part 1 of Schedule No. 1 to the said Act is hereby amended to the extent set out in the Schedule hereto.

T. A. MANUEL

Minister of Finance

SCHEDULE

Heading	Subheading	C D	Article Description	Statistical Unit	Rate of Duty	Anno= tations
29.18	2918.19		By the substitution for subheading No. 2918.19 of the following:			
	.10	4	- - Other:	kg	10%	
	.90	2	- - - Malic acid	kg	free	
			- - - Other			

No. R. 1184

8 Oktober 1999

DOEANE- EN AKSYNSWET, 1964

WYSIGING VAN BYLAE No. 1 (No. 1/1/1009)

Kragtens artikel 48 van die Doeane- en Aksynswet, 1964, word Deel 1 van Bylae No. 1 by genoemde Wet hiermee gewysig in die mate in die Bylae hierby aangetoon.

T. A. MANUEL

Minister van Finansies.

BYLAE

Pos	Subpos	T. S.	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg	Anno= taties
29.18	2918.19		Deur subpos No. 2918.19 deur die volgende te vervang:			
	.10	4	- - Ander:	kg	10%	
	.90	2	- - - Appelsuur	kg	vry	
			- - - Ander			

No. R. 1185

8 October 1999

CUSTOMS AND EXCISE ACT, 1964

AMENDMENT OF SCHEDULE No. 1 (No. 1/1/1010)

Under section 48 of the Customs and Excise Act, 1964, Part 1 of Schedule No. 1 to the said Act is hereby amended to the extent set out in the Schedule hereto.

T. A. MANUEL

Minister of Finance

SCHEDULE

Head= ing	Subheading	C. D.	Article Description	Statistical Unit	Rate of Duty	Anno= tations
70.19	"7019.32	9	By the substitution for subheading No.7019.32 of the following: -- Thin sheets (voiles)	kg	10%"	

No. R. 1185

8 Oktober 1999

DOEANE- EN AKSYNSWET, 1964

WYSIGING VAN BYLAE No. 1 (No. 1/1/1010)

Kragtens artikel 48 van die Doeane- en Aksynswet, 1964, word Deel 1 van Bylae No. 1 by genoemde Wet hiermee gewysig in die mate in die Bylae hierby aangetoon.

T. A. MANUEL

Minister van Finansies.

BYLAE

Pos	Subpos	T. S.	Artikel Beskrywing	Statistiese Eenheid	Skaal van Reg	Anno= tasies
70.19	"7019.32	9	Deur subpos No. 7019.32 deur die volgende te vervang: -- Dun velle (voiles)	kg	10%"	

No. R. 1186

8 October 1999

CUSTOMS AND EXCISE ACT, 1964

AMENDMENT OF SCHEDULE No. 3 (No. 3/441)

Under section 75 of the Customs and Excise Act, 1964, Schedule No. 3 to the said Act is hereby amended to the extent set out in the Schedule hereto.

T. A. MANUEL

Minister of Finance

SCHEDULE

I Rebate Item	II				III Extent of Rebate	Anno= tations
	Tariff Heading	Rebate Code	C. D.	Description		
311.02				By the deletion of tariff heading No. 48.22.		
				By the deletion of tariff heading No. 55.09.		
311.10				By the deletion of tariff heading No. 54.01.		
				By the deletion of tariff heading No. 54.03.		
				By the deletion of tariff heading No. 55.09.		
				By the deletion of tariff heading No. 55.10.		
				By the deletion of rebate code 01.06 to tariff heading No. 5515.91.		
311.27				By the deletion of tariff heading No. 54.08.		
312.02				By the deletion of tariff heading No. 51.11.		
				By the deletion of rebate code 01.00 to tariff heading No. 52.10.		
				By the deletion of rebate code 03.00 to tariff heading No. 52.10.		
				By the deletion of tariff headings Nos. 52.11 and 52.12.		
				By the deletion of tariff heading No. 73.20.		
312.03				By the deletion of tariff heading No. 54.08.		

No. R. 1186

8 Oktober 1999

DOEANE- EN AKSYNSWET, 1964

WYSIGING VAN BYLAE No. 3 (No. 3/441)

Kragtens artikel 75 van die Doeane- en Aksynswet, 1964, word Bylae No. 3 by genoemde Wet hiermee gewysig in die mate in die Bylae hierby aangetoon.

T. A. MANUEL

Minister van Finansies.

BYLAE

I Korting= item	II				III Mate van Korting	Anno= tasies
	Tarief= pos	Korting= kode	T. S.	Beskrywing		
311.02				Deur tariefpos No. 48.22 te skrap.		
				Deur tariefpos No. 55.09 te skrap.		
311.10				Deur tariefpos No. 54.01 te skrap.		
				Deur tariefpos No. 54.03 te skrap.		
				Deur tariefpos No. 55.09 te skrap.		
				Deur tariefpos No. 55.10 te skrap.		
				Deur kortingskode 01.06 by tariefpos No. 5515.91 te skrap.		
311.27				Deur tariefpos No. 54.08 te skrap.		
				Deur tariefpos No. 83.02 te skrap.		
312.02				Deur tariefpos No. 51.11 te skrap.		
				Deur kortingskode 01.00 by tariefpos No. 52.10 te skrap.		
				Deur kortingskode 03.00 by tariefpos No. 52.10 te skrap.		
				Deur tariefposte Nos. 52.11 en 52.12 te skrap.		
				Deur tariefpos No. 73.20 te skrap.		
312.03				Deur tariefpos No. 54.08 te skrap.		

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