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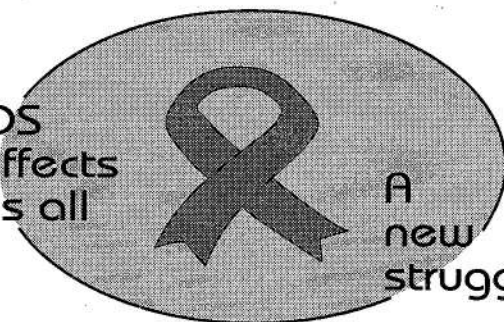
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PRETORIA, 5 NOVEMBER 1999

No. 20598

We all have the power to prevent AIDS

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affects
us all



A
new
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Prevention is the cure

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DEPARTMENT OF HEALTH

GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

DEPARTMENT OF LABOUR DEPARTEMENT VAN ARBEID

No. R. 1308

5 November 1999

LABOUR RELATIONS ACT, 1995

BARGAINING COUNCIL FOR THE BUILDING INDUSTRY (SOUTHERN AND EASTERN CAPE): EXTENSION OF AMENDMENT OF COLLECTIVE AGREEMENT TO NON-PARTIES

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of section 32 (2) of the Labour Relations Act, 1995, declare that the Collective Agreement which appears in the Schedule hereto, which was concluded in the Bargaining Council for the Building Industry (Southern and Eastern Cape) and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the Agreement, shall be binding on the other employers and employees in that Industry, with effect from 15 November 1999 and for the period ending 28 February 2001.

M. M. S. MDLADLANA
Minister of Labour

SCHEDULE

BUILDING INDUSTRY BARGAINING COUNCIL (SOUTHERN AND EASTERN CAPE)

COLLECTIVE AGREEMENT

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

East Cape Master Builders' and Allied Industries' Association

Electrical Contracting and Allied Industries' Association (Eastern Cape)

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

Amalgamated Union of Building Trade Workers of South Africa

and

Construction and Allied Workers' Union

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

being the parties to the Building Industry Bargaining Council (Southern and Eastern Cape),

to amend the Agreement published under Government Notice No. R. 245 of 20 February 1998, as amended by Government Notice No. R. 1613 of 11 December 1998.

1. SCOPE AND APPLICATION

- (1) The terms of this Agreement shall be observed in the Building Industry and Timber Trade—
 - (a) by all employers who are members of the employers' organisations and by employees who are members of the trade unions;
 - (b) in the Magisterial Districts of Albany, Alexandria, Bathurst, Beaufort-West, Calitzdorp, George, Humansdorp, Joubertina, Knysna, Ladismith, Mossel Bay, Oudtshoorn, Port Elizabeth, Queenstown (excluding that portion which, prior to the publication of Government Notice No. 1904 of 30 August 1985, fell within the Magisterial District of Stockenström), Riversdale, Uitenhage, Uniondale, and in that portion of the Magisterial District of Hankey which, prior to 1 November 1963, fell within the Magisterial District of Port Elizabeth, but excluding that portion of the Magisterial District of Port Elizabeth which, prior to the publication of Government Notice No. 1974 of 26 September 1980, fell within the Magisterial District of Hankey.
- (2) Notwithstanding the provisions of subclause (1), the terms of this Agreement shall apply to—
 - (a) apprentices only in so far as they are not inconsistent with the provisions of the Manpower Training Act, 1981, or any contract entered into or any conditions fixed thereunder;

- (b) trainees under the Manpower Training Act, 1981, only in so far as they are not inconsistent with the provisions of the Act or any conditions fixed thereunder.
- (3) Notwithstanding the provisions of subclause (1) (a), the terms of this Agreement shall not apply to—
 - (a) clerical employees and administrative staff, excluding site storemen;
 - (b) university students and graduates in Building Science, and to construction supervisors, construction surveyors and other persons doing practical work in the completion of their academic training;
 - (c) non-parties in respect of clauses 1 (1) (a) and 8 (1).

2. CLAUSE 5: DEFINITIONS

Substitute the following for the definition of "remuneration":

"**'remuneration'** means any payment in money or in kind, or both in money and in kind, made or owing to any person in return for that person working for any other person, including the state, and

'remunerate' has a corresponding meaning;".

3. CLAUSE 6: REGISTRATION OF EMPLOYEES

Substitute the following for subclause (1):

- "(1) Every employer shall, within a period of seven days from the date of employment of an employee, register such employee with the Council. The employee's identity document or a copy thereof shall be submitted when registering an employee."

4. CLAUSE 8: RETRENCHMENT

- (1) Substitute the following for paragraph (f) of subclause (1):

"(f) An employee who is retrenched in terms of this clause shall be entitled to severance pay in accordance with the provisions of section 41 of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997)."

- (2) Substitute the following for subclause (2):

"(2) Notwithstanding the provisions of subclause (1), every employer must also have regard to the provisions of section 189 of the Act and the Code of Good Practice on Dismissal Based on Operational Requirements issued under section 203 (1) of the Act."

5. CLAUSE 14: REMUNERATION

- (1) In subparagraph (iv) of subclause (3) (c), substitute the expression "5c" for the expression "2½c".

- (2) In the heading of subclause (5), substitute the expression "Building Industry Benefit Fund" for the expression "Building Industry Sick Benefit Fund".

- (3) In subclause (7) (b), substitute the expression "at one and a half times" for the expression "at one and a third (1⅓) times".

- (4) Substitute the following for paragraph (b) of subclause (8) (1):

"(b) be provided by his employer with suitable sleeping accommodation in the proximity of the workplace, and in Areas C, D and E an employer must pay every employee an allowance of 50c per day. An employer must pay an employee the allowance at the same time as he is paid his normal remuneration;".

6. CLAUSE 17: EMPLOYMENT RETURN FORMS AND PAYMENT OF CONSOLIDATED STAMP CONTRIBUTIONS

Insert the following new subclause (5) after subclause (4):

- "(5) **Legal costs:** Whenever the Council instructs attorneys to collect moneys, including the recovery of any amount of money that includes money deducted by an employer from any moneys due to an employee but not paid over to the Council, then in such event the debtor shall be liable for all tracing fees, collection charges, disbursements and legal costs incurred by the Council in recovery of the amount due, including costs on the attorney and own client scale, irrespective as to whether civil proceedings or arbitration proceedings have been commenced with."

7. CLAUSE 29: SICK BENEFIT FUND

- (1) Substitute the following for the heading to clause 29:

"29. BENEFIT FUND".

- (2) Substitute the following for subclause (1):

"(1) **Continuation:** The operation of the Fund established under Government Notice No. R. 162 of 4 February 1977, formerly known as the "Building Industry Sick Benefit Fund", is hereby continued as the "Building Industry Benefit Fund" and shall continue to be administered by the Council for the purpose of—

- (a) recompensing members for loss of earnings arising out of unemployment caused by sickness or accident, and family responsibility leave;
- (b) considering gratuities and/or annuities for employees for whom wages are laid down in Annexure A items (i), (ii), and (xi)(a), (b), (c) and (d);
- (c) subsidising the monthly contributions payable by continuation members to the Building Industry Medical Aid Fund, East Cape; and
- (d) do all things as are necessary, incidental or conducive to the welfare of members and to the attainment of the aforesaid objects.”.

8. Substitute the following for clause 35:

“35. EXEMPTIONS

- (1) Any party to this Agreement or any member of a party to this Agreement may apply to the Council for exemption from any of the provisions of this Agreement.
- (2) The Council or the responsible committee shall consider an application for exemption received from a party or a member of a party to the Agreement, at the first meeting of the Council or the responsible committee following the receipt of the application, with the proviso that applications received within less than five normal working days prior to a Council or a responsible committee meeting, shall only be considered at the next Council or responsible committee meeting.
- (3) Applications for exemption referred to the Council in terms of subclause (2) and (3) shall be considered by the Council or responsible committee in accordance with the exemption criteria set out in subclause (13) hereof, and the applicants shall be advised, in writing, as soon as possible of the Council's or responsible committee's decision.
- (4) The Council or the responsible committee shall, subject to the exemption criteria, grant exemption only on good cause and may determine such period and conditions of exemption as it deems fit.
- (5) Any non-party to which this Agreement has been extended in terms of section 32 of the Act, may apply to the Council for exemption from any of the provisions of this Agreement.
- (6) Subclauses (2) to (4) shall *mutatis mutandis* apply to any application for exemption received from a non-party.
- (7) In terms of section 32 of the Act, the Council hereby establishes an independent body called the “Exemptions Board” in Area A (which for the purpose of this clause shall include the Magisterial District of Humansdorp), Area B and Areas C, D and E to hear and decide any appeal brought against—
 - (a) the Council's or responsible committee's refusal of a non-party's application or exemption from the provisions of this Agreement;
 - (b) the withdrawal of such an exemption by the Council or responsible committee.
- (8) Within 14 consecutive days after having been advised of the Council's or responsible committee's decision regarding the application for exemption, a non-party who feels aggrieved by the Council's or responsible committee's decision, may submit a written appeal against the Council's or responsible committee's decision to the Secretary of the Council. Such an appeal must be fully reasoned.
- (9) The Secretary of the Council shall submit the appeal, together with the Council's or responsible committee's decision regarding the application for exemption, to the Exemptions Board who shall as soon as possible hear and decide the matter with reference to the exemption criteria set out in subclause (13) hereof and when requested by the appellants or objectors to do so, may interview appellants or any objectors at its following meeting: Provided that the Exemptions Board may defer a decision to a following meeting if additional motivation, information or verbal representations are considered necessary to decide on the appeal.
- (10) Once the Exemptions Board has decided to uphold the appeal and grant an exemption, it shall issue an exemption certificate and advise the appellants as soon as possible of the decision, clearly specifying—
 - (a) the terms of the exemption; and
 - (b) the reporting requirements for the appellant, and monitoring and re-evaluation processes.
- (11) When the Exemptions Board decides against granting an exemption or part of an exemption requested, it shall advise the appellant(s) as soon as possible of such decision and shall provide the reason or reasons for the decision not to grant an exemption.
- (12) All applicants for exemptions referred to in this clause shall be addressed to the Secretary of the Council and shall—
 - (a) be in writing on an application form provided by the Council;
 - (b) indicate the period of time for which the exemption is required;
 - (c) indicate clearly the clauses and subclauses of this Agreement from which exemption is required;

- (d) be fully reasoned and motivated and include proof that the exemption applied for has been discussed between the employer, his employees and their respective representatives, and also include the responses resulting from such consultations whether in support or against the application;
 - (e) indicate possible substitutive provisions;
 - (f) indicate the specific workplaces and employees (if relevant) in respect of which the exemption is applied for;
 - (g) include details of the total work force (if relevant) of the employer concerned.
- (13) **Exemption criteria:** The Exemptions Board, the Council or responsible committee shall consider all applications and appeals for exemption referred to in this clause with reference to the following criteria:
- (a) The extent of consultation with and petition for or against granting the exemption as provided by employers or employees who are to be affected by the exemption if granted;
 - (b) infringement of basic conditions of employment rights;
 - (c) the fact that a competitive advantage is not created by the exemption;
 - (d) that exemption from any employee benefit fund or training provision be viewed in relation to the alternative comparable bona fide benefit or provision, including the cost to the employee, transferability, administration management cost, growth and stability;
 - (e) the extent to which the proposed exemption undermines collective bargaining and labour peace in the Building Industry;
 - (f) any special economic or other circumstances that warrant the granting of the exemption;
 - (g) the reality that the majority of employers at any time engaged in the Building Industry within the Council's areas of jurisdiction as well as the majority of members of the employer parties to the Council, represent the category micro to medium enterprises and employ between one and twenty employees;
 - (h) the exemption policy of the Council in respect of government-subsidised, low-cost, labour-intensive and community-participating building construction projects adopted by the Council on 14 February 1996, as well as the revision of the aforesaid exemption policy adopted by the Council on 6 March 1998;
 - (i) take cognisance of the recommendations contained in the Report of the Presidential Commission to Investigate Labour Market Policy."

9. In Annexure C to this Agreement, substitute the subheading "Clause 14 (5)—Benefit Fund—Allowance and Contribution" for the subheading "Clause 14 (5)—Sick Benefit Fund—Allowance and Contribution."

10. Substitute the following for Annexures A, B and D to this Agreement:

"ANNEXURE A

BUILDING INDUSTRY BARGAINING COUNCIL (SOUTHERN AND EASTERN CAPE)

CLAUSE 14 (1): MINIMUM WAGE RATES

<i>Category of employee and area</i>	<i>Per hour R</i>
(i) Construction worker level A:	
Area A.....	19,46
Area B.....	11,56
Area C.....	9,97
Area D.....	10,06
Area E.....	10,08
(ii) Construction worker level B:	
Area A.....	18,54
Glaziers in joinery shop.....	18,21
Area B:	
Grade A Journeymen in all other trades.....	11,00
Grade A Journeymen in painting and glazing.....	9,48
Journeymen in other trades.....	9,06

<i>Category of employee and area</i>		<i>Per hour</i> <i>R</i>
Area C:		
Grade A Journeymen in all trades		9,50
Journeymen in all trades		7,82
Area D:		
Grade A Journeymen in all trades		9,59
Journeymen in all trades		8,67
Area E:		
Grade A Journeymen in all trades		9,61
Journeymen in all trades		9,04
(iii) Construction worker level C:		
Area A		11,22
Machine minders and sawyers, mechanical handling equipment drivers		10,58
Area B		6,90
Machine minders and sawyers, mechanical handling equipment drivers		7,37
Area C		5,51
Area D		5,66
Machine minders and sawyers, mechanical handling equipment drivers		5,36
Area E		5,67
Operators of cranes, and hoists and motor vehicle drivers		6,53
(iv) Construction worker level D:		
Area A		8,46
Area B		6,21
Area C		4,33
Area D		4,88
Area E		5,28
(v) Construction worker level E:		
Area A		7,78
Area B		5,60
Area C		4,29
Area D		4,31
Area E		4,28
(vi) Special category employees:		
<i>Driver with Code 09 licence:</i>		
Area A		9,65
Area B		6,82
Area C		4,46
<i>Watchman (per six-day week):</i>		<i>Per week</i>
Area A		329,96
Area B		250,66
Area C		219,10
(vii) Apprentices: Wages as prescribed under the Manpower Training Act, 1981, for apprentices in the Building Industry.		
(viii) Minors in all trades: Wages as prescribed for apprentices in the Building Industry.		
(ix) Trainee construction workers: Wages as fixed by the Council in terms of clause 21 of this Agreement.		
(x) Cleaners: 70 per cent of the wage referred to in paragraph (v) for construction worker level E.		
(xi) Employees engaged in electrical installation, which includes electrical fitting and wiring and operations incidental thereto:		

	Areas	Per hour				
		A	B	C	D	E
(a) Master installation electrician	20,40	12,11	10,43	10,54	10,57	
(b) Installation electrician	18,54	11,00	9,65	9,59	9,61	
(c) Electrical tester for single phase	14,97	8,80	7,72	7,66	7,68	
(d) Electrical journeyman (unlicensed)	14,97	8,80	7,72	7,66	7,68	
(e) Electrical operator	11,22	6,60	5,89	5,66	5,67	
(f) Electrical general employee	7,78	5,60	4,29	4,31	4,28	

ANNEXURE B**BUILDING INDUSTRY BARGAINING COUNCIL (SOUTHERN AND EASTERN CAPE)****CLAUSE 14 (4): MEDICAL AID FUND: ALLOWANCE AND CONTRIBUTION****(a) Allowances:**

- (i) In addition to any other remuneration to which an employee referred to in subclause (1) (i), (ii) and (xi) (a), (b), (c) and (d) may be entitled, every employer shall pay to every such employee in his employ an allowance of 94,5 cents per hour in respect of all the ordinary hours of work, referred to in clause 12, worked by such employee during a week; and
- (ii) in addition to any other remuneration which an employee employed under a contract of apprenticeship registered in terms of the Manpower Training Act, 1981, may be entitled, every employer shall pay to every such employee an allowance of 21,6c per hour in respect of all the ordinary hours of work, referred to in clause 12, worked by such employee during a week.

(b) Contributions:

- (i) Every employer shall contribute to the Building Industry Medical Aid Fund, East Cape, an amount of R75,60 per week in respect of each of his employees referred to in paragraph (a) (i). An employer shall be entitled to deduct the amount paid to the employee in terms of paragraph (a) (i) from the remuneration of the employee in respect of whom payment was made; and
- (ii) every employer shall contribute to the Building Industry Medical Aid Fund, East Cape, an amount of R17,28 per week in respect of an employee referred to in paragraph (a) (ii). An employer shall be entitled to deduct the amount paid to the employee in terms of paragraph (a) (ii) from the remuneration of the employee in respect of whom payment was made.

ANNEXURE D**BUILDING INDUSTRY BARGAINING COUNCIL (SOUTHERN AND EASTERN CAPE)****CLAUSE 14 (6): PENSION AND PROVIDENT FUNDS: ALLOWANCE AND CONTRIBUTION**

- (i) **Allowances:** In addition to any other remuneration payable to which an employee may be entitled to, every employer in Area B shall in respect of the undermentioned employees in his employ pay an allowance as specified below in respect of every hour worked (excluding overtime): Provided that the said allowance shall be paid for not more than 45 hours in any one week:

Category of employee	Per hour
(a) Construction worker level A	,97
(b) Construction worker level B:	
Grade A Journeymen in all other trades	,92
Grade A Journeymen in painting and glazing	,80
Journeymen in other trades	,76
(c) Construction worker level C:	,58
Machine minders and sawyers, mechanical handling equipment drivers.....	,62
(d) Construction worker level D	,52
(e) Construction worker level E	,47
(f) Special category employees:	
Driver with Code 09 licence	,57
Watchman	,47

	<i>Category of employee</i>	<i>Per hour</i>
(g)	Employees engaged in electrical installation, which includes electrical fitting and wiring and operations incidental thereto:	
	(i) Master installation electrician	1,02
	(ii) Installation electrician	,92
	(iii) Electrical tester for single phase	,74
	(iv) Electrical journeyman (unlicensed)	,74
	(v) Electrical operator	,55
	(vi) Electrical general employee	,47
(ii)	Contributions: Every employer in Area B shall pay to the Council in respect of the undermentioned employees in his employ who have worked 27 ordinary hours of work, in any week, in accordance with the procedure referred to in clause 14 (6) (d), the following amounts:	
	<i>Category of employee</i>	<i>Per week</i>
(a)	Construction worker level A	72,83
(b)	Construction worker level B:	
	Grade A Journeymen in all other trades	69,30
	Grade A Journeymen in painting and glazing	59,72
	Journeymen in other trades	57,08
(c)	Construction worker level C	43,47
	Machine minders and sawyers, machanical handling equipment drivers.....	46,43
(d)	Construction worker level D	39,12
(e)	Construction worker level E	35,28
(f)	Special category employees:	
	Driver with Code 09 licence	42,97
	Watchman	35,09
(g)	Employees engaged in electrical installation, which includes electrical fitting and wiring and operations incidental thereto:	
	(i) Master installation electrician	76,29
	(ii) Installation electrician	69,30
	(iii) Electrical tester for single phase	55,44
	(iv) Electrical journeyman (unlicensed)	55,44
	(v) Electrical operator	41,58
	(vi) Electrical general employee	35,38".

Signed at Port Elizabeth on this 16th day of September 1999.

G. B. STEELE

East Cape Master Builders' and Allied Industries' Association

B. G. THOMPSON

Electrical Contracting and Allied Industries Association (Eastern Cape)

E. PLAATJIES

Construction and Allied Workers' Union

S. VAN RAYNER

Amalgamated Union of Building Trade Workers of South Africa

[being the parties of the Building Industry Bargaining Council (Southern and Eastern Cape)], in the presence of V. H. le Roux

General Secretary

No. R. 1308

5 November 1999

WET OP ARBEIDSVERHOUDINGE, 1995

BEDINGINGSRAAD VIR DIE BOUNYWERHEID (SUID- EN OOS-KAAP): UITBREIDING VAN WYSIGING VAN KOLLEKTIEWE OOREENKOMS NA NIE-PARTYE

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, verklaar hierby kragtens artikel 32 (2) van die Wet op Arbeidsverhoudinge, 1995, die Kollektiewe Ooreenkoms wat in die Bylae hiervan verskyn, en wat in die Bedingingsraad vir die Bounywerheid (Suid- en Oos-Kaap) aangegaan is en kragtens artikel 31 van die Wet op Arbeidsverhoudinge, 1995, bindend is op die partye wat die Ooreenkoms aangegaan het, bindend vir die ander werkgewers en werknemers in daardie Nywerheid, met ingang van 15 November 1999, en vir die tydperk wat op 28 Februarie 2001 eindig.

M. M. S. MDLADLANA
Minister van Arbeid

BYLAE**BEDINGINGSRAAD VIR DIE BOUNYWERHEID (SUID- EN OOS-KAAP)****KOLLEKTIEWE OOREENKOMS**

ooreenkomstig die Wet op Arbeidsverhoudinge, 1995, gesluit deur en aangegaan tussen die

East Cape Master Builders' and Allied Industries' Association

Electrical Contracting and Allied Industries' Association (Eastern Cape)

(hierna die "werkgewers" of die "werkgewersorganisasies" genoem), aan die een kant, en die

Amalgamated Union of Building Trade Workers of South Africa

en

Construction and Allied Workers' Union

(hierna die "werknemers" of die "vakbonde" genoem), aan die ander kant,

wat die partye is by die Bedingingsraad vir die Bounywerheid (Suid- en Oos-Kaap), tot wysiging van die

Ooreenkoms gepubliseer by Goewermentskennisgewing No. R. 245 van 20 Februarie 1998 soos gewysig by Goewermentskennisgewing No. 1613 van 11 Desember 1998.

1. TOEPASSINGSBESTEK VAN OOREENKOMS

(1) Hierdie Ooreenkoms moet in die Bou- en Houtnywerheid nagekom word—

- (a) deur alle werkgewers en werknemers wat lede is van onderskeidelik die werkgewersorganisasies en die vakbonde;
- (b) in die landdrosdistrikte Albany, Alexandria, Bathurst, Beaufort-Wes, Calitzdorp, George, Humansdorp, Joubertina, Knysna, Ladismith, Mosselbaai, Oudtshoorn, Port Elizabeth, Queenstown (uitgesonderd die gedeelte wat voor die publikasie van Goewermentskennisgewing No. 1904 van 30 Augustus 1985, binne die landdrosdistrik Stockenström geval het), Riversdale, Uitenhage, Uniondale, en die gedeelte van die landdrosdistrik Hankey wat voor 1 November 1963, binne die landdrosdistrik Port Elizabeth geval het, maar uitgesonderd die gedeelte van die landdrosdistrik Port Elizabeth wat voor die publikasie van Goewermentskennisgewing No. 1974 van 26 September 1980 binne die landdrosdistrik Hankey geval het.

(2) Ondanks subklousule (1) is hierdie Ooreenkoms van toepassing op—

- (a) vakleerlinge slegs vir sover dit nie onbestaanbaar is met die Wet op Mannekragopleiding, 1981, of met 'n kontrak wat daarkragtens aangegaan of met voorwaardes wat daarkragtens gestel is nie;
- (b) kwekelinge wat opgelei word ooreenkomstig die Wet op Mannekragopleiding, 1981, slegs vir sover dit nie onbestaanbaar is met Wet of met voorwaardes wat daarkragtens gestel is nie.

(3) Ondanks die bepalings van subklousule (1) (a), is die bepalings van hierdie Ooreenkoms nie van toepassing nie op—

- (a) klerklike werknemers en administratiewe personeel, uitgesonderd terreinmagasynmeesters;
- (b) universiteitstudente en gegradueerdes in die Bouwetenskap, en op konstruksietoeseighouers, konstruksie-opmeters en ander persone wat besig is met praktiese werk ter voltooiing van hulle akademiese opleiding;
- (c) nie-partye ten opsigte van klousules 1 (1) (a) en 8 (1).

2. KLOUSULE 5: WOORDOMSKRYWING

Vervang die omskrywing "besoldiging" deur die volgende:

"**'besoldiging'** enige betaling in kontant of in goedere, of beide in kontant en goedere, gedoen of verskuldig aan 'n persoon, in ruil waarvoor daardie persoon vir 'n ander persoon, met inbegrip van die Staat, werk, en het '**'besoldig'** 'n ooreenstemmende betekenis;".

3. KLOUSULE 6: REGISTRASIE VAN WERKNEMERS

Vervang subklousule (1) deur die volgende:

"(1) Elke werkgever moet binne 'n tydperk van sewe dae vanaf die datum van indiensneming van 'n werknemer, sodanige werknemer by die Raad registreer. Die werknemer se identiteitsdokument of 'n afskrif daarvan moet voorgelê word wanneer 'n werknemer geregistreer word."

4. KLOUSULE 8: PERSONEELAFLEGGING

(1) Vervang paragraaf (f) van subklousule (1) deur die volgende:

"(f) 'n Werknemer wat afgelê is ingevolge hierdie klousule, is geregtig op 'n uittreeloon in ooreenstemming met die bepalings van artikel 41 van die Wet op Basiese Diensvoorwaardes, 1997 (Wet No. 75 van 1997)."

(2) Vervang subklousule (2) deur die volgende:

"(2) Ondanks die bepalings van subklousule (1) moet 'n werkgever ook kennis neem van die bepalings van artikel 189 van die Wet en die Goeie Praktykkode oor Ontslag Gegrond op Bedryfsvereistes uitgereik kragtens artikel 203 (1) van die Wet."

5. KLOUSULE 14: BESOLDIGING

(1) In subparagraaf (iv) van subklousule (3) (c), vervang die uitdrukking " $2\frac{1}{2}c$ " deur die uitdrukking "5c".

(2) In die opskrif van subklousule (5), vervang die uitdrukking "Siektebystandfonds vir die Bounywerheid" deur die uitdrukking "Bystandfonds vir die Bounywerheid".

(3) In subklousule (7) (b), vervang die uitdrukking "teen een en 'n derde maal" deur die uitdrukking "teen een en 'n half maal."

(4) Vervang paragraaf (b) van subklousule (8) (1) deur die volgende:

"(b) die werkgever geskikte slaapplek aan sodanige werknemer voorsien in die nabyheid van die werkplek en 'n werkgever in Gebiede C, D en E moet aan elke werknemer 'n toelae van 50c per dag betaal. 'n Werkgever moet die toelae saam met 'n werknemer se normale besoldiging betaal;".

6. KLOUSULE 17: DIENSOPGAWEVORMS EN BETALING VAN GEKONSOLIDEERDE SEËLBYDRAES

Voeg die volgende nuwe subklousule (5) in na subklousule (4):

"(5) **Regskoste:** Wanneer die Raad aan prokureurs opdrag gee om gelde in te vorder, insluitende die verhalings van 'n bedrag wat geld insluit wat deur die werkgever afgetrek is van enige gelde verskuldig aan 'n werknemer, maar wat nie aan die Raad oorbetal is nie, word die skuldenaar in so 'n geval aanspreeklik gehou vir al die opsporingsfooie, invorderingskoste, uitgawes en regskostes aangegaan deur die Raad van die bedrag verhaal, insluitende die kostes volgens prokureur-en-eie-kliënt-skaal, ongeag of daar met 'n siviele of arbitrasiegeding begin is of nie."

7. KLOUSULE 29: SIEKTEBYSTANDSFONDS

(1) Vervang die opskrif van klousule 29 deur die volgende:

"29. BYSTANDSFONDS".

(2) Vervang subklousule (1) deur die volgende:

"(1) **Voortsetting:** Die bedryf van die Fonds wat deur Goewermentskennisgewing R. 162 van 4 Februarie 1977 ingestel is en wat voorheen bekendgestaan het as die "Siektebystandfonds vir die Bounywerheid", word hierby voortgesit as die "Bystandfonds vir die Bounywerheid" en gaan voort om deur die Raad geadministreer te word met die doel om—

- (a) lede te vergoed vir verlies aan verdienste wat ontstaan uit werkloosheid veroorsaak deur siekte of ongeluk en gesinsverantwoordelikeverlof;
- (b) gratifikasie en/of jaargelde te oorweeg vir werknemers vir wie lone bepaal word in Aanhangsel A items (i), (ii) en (xi) (a), (b), (c) en (d);

- (c) die maandelikse bydraes betaalbaar deur voortsettingslede aan die Mediese Bystandsfonds vir die Bounywerheid, Oos-Kaap, te subsidieer; en
- (d) alles te doen wat nodig is vir, gepaardgaan met of bevorderlik is, vir die welsyn van lede en vir die bereiking van genoemde doelstellings."

8. Vervang klousule 35 deur die volgende:

"35. VRYSTELLINGS

- (1) Enige party by hierdie Ooreenkoms of enige lid van 'n party by hierdie Ooreenkoms, kan by die Raad aansoek doen om vrystelling van enige van die bepalings van hierdie Ooreenkoms.
- (2) 'n Aansoek om vrystelling ontvang van 'n party of 'n lid van 'n party by die Ooreenkoms, moet deur die Raad of die verantwoordelike Komitee oorweeg word op die eersvolgende vergadering van die Raad of die verantwoordelike Komitee, met dien verstande dat aansoeke ontvang binne minder as vyf gewone werksdae onmiddellik voor 'n vergadering van die Raad of verantwoordelike komitee, eers met die daaropvolgende vergadering oorweeg word.
- (3) Aansoeke om vrystelling wat ingevolge subklousules (2) en (3) na die Raad verwys is, moet deur die Raad of die verantwoordelike komitee oorweeg word ooreenkomstig die vrystellingskriteria uiteengesit in subklousule (13) hiervan, en die appellant moet so gou moontlik skriftelik verwittig word van die Raad of die verantwoordelike komitee se beslissing.
- (4) Behoudens die vrystellingskriteria, verleen die Raad of verantwoordelike Komitee vrystellings slegs om afdoende redes, en kan na goeddunke die vrystellingstydperk en -voorwaardes bepaal.
- (5) Enige nie-party na wie hierdie Ooreenkoms ingevolge artikel 32 van die Wet uitgebrei is, kan by die Raad aansoek doen om vrystelling van enige van die bepalings van hierdie Ooreenkoms.
- (6) Subklousules (2) tot en (4) geld *mutatis mutandis* ten opsigte van enige aansoek om vrystelling ontvang van 'n nie-party.
- (7) 'n Onafhanklike liggaam wat as 'n "Vrystellingsraad" bekend sal staan, word hierby ingevolge artikel 32 van die Wet, deur die Raad ingestel in Gebied A (wat vir die doel van hierdie klousule die landdrostdistrik Humansdorp insluit), Gebied B en Gebiede C, D en E, wat enige appèl aanhoor en beslis wat aangeteken word teen—
 - (a) Die Raad of verantwoordelike komitee se weiering van 'n nie-party se aansoek om vrystelling van die bepalings van hierdie Ooreenkoms;
 - (b) die intrekking van so 'n vrystelling deur die Raad of verantwoordelike komitee.
- (8) Binne 14 opeenvolgende dae nadat die nie-party van die Raad se beslissing aangaande sy aansoek om vrystelling verwittig is, kan die nie-party wat ontevrede is met die Raad of die verantwoordelike komitee se beslissing, 'n skriftelike appèl teen die Raad of verantwoordelike komitee se beslissing by die Sekretaris van die Raad indien. Sodanige appèl moet vollediger gemotiveer wees.
- (9) Die Sekretaris van die Raad moet die appèl, tesame met die Raad of verantwoordelike komitee se beslissing rakende die aansoek om vrystelling, voorlê aan die Vrystellingsraad wat die aangeleentheid so spoedig moontlik aanhoor en daaroor besluit met inagneming van die vrystellingskriteria uiteengesit in subklousule (13) hiervan, en kan, indien daartoe versoek deur die appellante of beswaarmakers, onderhoude voer met die appellante of enige beswaarmakers by sy eersvolgende vergadering: Met dien verstande dat die Vrystellingsraad 'n beslissing tot 'n volgende vergadering kan uitstel indien addisionele motivering, inligting of mondelinge getuienis nodig geag word ten einde oor 'n aansoek om vrystelling te besluit.
- (10) Nadat die Vrystellingsraad besluit het om die appèl te handhaaf en om vrystelling toe te staan, moet hy 'n vrystellingsertifikaat uitreik en die appellante so gou moontlik inlig deur duidelik te spesifiseer—
 - (a) wat die bepalings van die vrystelling behels; en
 - (b) die terugvoerbepalings wat deur die appellant nagekom moet word, asook die moniterings- en her-evaluasieprosesse.
- (11) Indien die Vrystellingsraad 'n aansoek om vrystelling in sy geheel of gedeeltelik afgekeur het, moet hy die appellant(e) so gou as moontlik van sodanige besluit verwittig en ook di rede of redes vir die weiering van die vrystelling verstrek.
- (12) Alle aansoeke om vrystelling bedoel in hierdie klousule, moet aan die Sekretaris van die Raad gerig word, en moet—
 - (a) skriftelik wees op 'n aansoekvorm voorsien deur die Raad;
 - (b) die tydperk aandui waarvoor vrystelling benodig word;
 - (c) duidelik die klousules en subklousules van hierdie Ooreenkoms aandui ten opsigte waarvan vrystelling benodig word;

- (d) behoorlik gemotiveer wees en bewyse insluit dat die vrystelling waarvoor aansoek gedoen word, wel bespreek is tussen die werkgewer, sy werknemers en hul onderskeie verteenwoordigers. Die reaksies voortspruitend uit sodanige oorlegplegings, hetsy ten gunste of teen die aansoek, moet by die aansoek ingesluit word;
 - (e) moontlike alternatiewe bepalings aandui;
 - (f) die spesifieke werkplekke en werknemers (indien tersaaklik) ten opsigte waarvan aansoek om vrystelling gedoen word, aandui;
 - (g) besonderhede van die totale werkkragte (indien tersaaklik) van die betrokke werkgewer insluit.
- (13) **Vrystellingskriteria:** Die Vrystellingsraad, die Raad of verantwoordelike komitee moet alle aansoeke om vrystelling bedoel in hierdie klousule, oorweeg met verwysing na die volgende kriteria:
- (a) Die mate van raadpleging met en die verhoë vir of teen die vrystelling soos verskaf deur die werkgewers of werknemers wat deur die vrystelling geraak sal word, indien toegestaan;
 - (b) die inbreuk op regte op basiese diensvoorwaardes;
 - (c) die feit dat 'n mededingende voordeel nie geskep word deur die vrystelling nie;
 - (d) dat vrystelling van enige werknemersvoorkeel- of opleidingsbepaling gesien moet word in verhouding tot die alternatiewe vergelykbare bona fide-voordeel of bepaling, met inbegrip van die koste vir die werknemer, oordraagbaarheid, administratiewe bestuurskoste, groei en stabiliteit;
 - (e) die mate waartoe die voorgestelde vrystelling kollektiewe bedinging en arbeidsvrede in die Bounywerheid kan ondermyn;
 - (f) enige bestaande spesiale ekonomiese of ander omstandighede wat die toekenning van die vrystelling regverdig;
 - (g) die realiteit dat die meerderheid werkgewers wat te eniger tyd in die Bounywerheid in die Raad se gebied van jurisdiksie werksaam is, sowel as die meerderheid van die lede van die werkgewers-organisasies wat partye is by die Raad, die kategorie mikro- of medium ondernemings verteenwoordig en tussen een en twintig werknemers in diens het;
 - (h) die vrystellingsbeleid van die Raad ten opsigte van regeringsgesubsidieerde, laekoste-, arbeidsintensiewe en gemeenskapdeelnemende bouprojekte, soos deur die Raad aanvaar op 14 Februarie 1996, sowel as die hersiening van voorgenoemde vrystellingsbeleid deur die Raad aanvaar op 6 Maart 1998;
 - (i) die inagneming van die aanbevelings vervat in die Verslag van die Presidensiële Kommissie van Onderzoek na die Arbeidsmarkbeleid.”.

9. In Aanhangsel C van hierdie Ooreenkoms vervang die opskrif onder die hoofopskrif “Klousule 14 (5)—Siektebystandsfonds—Toelaag en Bydraes” deur “Klousule 14 (5)—Bystandsfonds—Toelae en Bydrae.”.

10. Vervang Aanhangsels A, B en D van hierdie Ooreenkoms deur die volgende:

“AANHANGSEL A

BEDINGINGSRAAD VIR DIE BOUNYWERHEID (SUID- EN OOS-KAAP)

KLOUSULE 14 (1): MINIMUM LOONSKALE

<i>Kategorie werknemer en Gebied</i>	<i>Per uur R</i>
(i) Konstruksiewerker vlak A:	
Gebied A.....	19,46
Gebied B.....	11,56
Gebied C.....	9,97
Gebied D.....	10,06
Gebied E.....	10,08
(ii) Konstruksiewerker vlak B:	
Gebied A.....	18,54
Glaswerkers in skrynwerkwinkel.....	18,21

<i>Kategorie werknemer en Gebied</i>		<i>Per uur R</i>
Gebied B:		
Ambagsmanne graad A, in alle ander ambagte		11,00
Ambagsmanne graad A, in die ambagte skilder- en ruitwerk		9,48
Ambagsmanne in ander ambagte		9,06
Gebied C:		
Ambagsmanne graad A, in alle ambagte		9,50
Ambagsmanne in alle ambagte		7,82
Gebied D:		
Ambagsmanne graad A, in alle ambagte		9,59
Ambagsmanne in alle ambagte		8,67
Gebied E:		
Ambagsmanne graad A, in alle ambagte		9,61
Ambagsmanne in alle ambagte		9,04
(iii) Konstruksiewerker vlak C:		
Gebied A		11,22
Masjienoppassers en saers, drywers van meganiese hanteeruitrusting		10,58
Gebied B		6,90
Masjienoppassers en saers, drywers van meganiese hanteeruitrusting		7,37
Gebied C		5,51
Gebied D		5,66
Masjienoppassers en saers, drywers van meganiese hanteeruitrusting		5,36
Gebied E		5,67
Hyskraanoperateurs, hyser- en motorvoertuigdrywers		6,53
(iv) Konstruksiewerker vlak D:		
Gebied A		8,46
Gebied B		6,21
Gebied C		4,33
Gebied D		4,88
Gebied E		5,28
(v) Konstruksiewerker vlak E:		
Gebied A		7,78
Gebied B		5,60
Gebied C		4,29
Gebied D		4,31
Gebied E		4,28
(vi) Spesiale kategorie werknemers:		
<i>Drywer in besit van 'n Kode 09-lisensie:</i>		
Gebied A		9,65
Gebied B		6,82
Gebied C		4,46
<i>Wagte (per week van ses dae):</i>		<i>Per week</i>
Gebied A		329,96
Gebied B		250,66
Gebied C		219,10
(vii) Vakleerlinge: Lone soos voorgeskryf kragtens die Wet op Mannekragopleiding, 1981, vir vakleerlinge in die Bounywerheid.		
(viii) Minderjariges in alle ambagte: Lone soos vir vakleerlinge in die Bounywerheid bepaal.		
(ix) Kwekeling-konstruksiewerkers: Lone soos bepaal deur die Raad ingevolge klousule 21 van hierdie Ooreenkoms.		

- (x) **Skoonmakers:** 70 persent van die loon vasgestel in paragraaf (v) vir konstruksiewerker vlak E.
- (xi) Werknemers betrokke by elektriese installering wat elektriese montering, bedrading en werksaamhede wat daarmee gepaardgaan, insluit:

	Gebiede	Per uur				
		A	B	C	D	E
(a) Meester installasie-elektrisiën	20,40	12,11	10,43	10,54	10,57	
(b) Installasie-elektrisiën	18,54	11,00	9,65	9,59	9,61	
(c) Elektriese toetsers vir enkelfase	14,97	8,80	7,72	7,66	7,68	
(d) Elektriese ambagsman (ongelisensieerd)	14,97	8,80	7,72	7,66	7,68	
(e) Elektriese operateur	11,22	6,60	5,89	5,66	5,67	
(f) Elektriese algemene werknemer	7,78	5,60	4,29	4,31	4,28	

AANHANGSEL B

BEDINGINGSRAAD VIR DIE BOUNYWERHEID (SUID- EN OOS-KAAP)

KLOUSULE 14 (4): MEDIESE HULPFONDS: TOELAE EN BYDRAE

(a) Toelaes:

- (i) Benewens enige ander vergoeding waarop 'n werknemer gemeld in subklousule (1) (i), (ii) en (xi) (a), (b), (c) en (d) geregtig mag wees, moet elke werkgewer aan elke sodanige werknemer in sy diens 'n toelae van 94,5c per uur betaal ten opsigte van al die gewone werkure in 'n week gewerk soos bedoel in klousule 12; en
- (ii) benewens enige ander besoldiging waarop 'n werknemer geregtig mag wees ooreenkomstig 'n vakleerlingskapkontrak geregistreer ingevolge die Wet op Mannekragopleiding, 1981, moet elke werkgewer aan elke sodanige werknemer in sy diens 'n toelae van 21,6c per uur betaal ten opsigte van al die gewone werkure, in 'n week gewerk soos bedoel in klousule 12.

(b) Bydraes:

- (i) Elke werkgewer moet 'n bedrag van R75,60 per week bydra tot die vir die Bounywerheid Mediese Hulpfonds, Oos-Kaap, ten opsigte van elkeen van sy werknemers bedoel in paragraaf (a) (i). 'n Werkgewer is daarop geregtig om die bedrag wat ingevolge paragraaf (a) (i) aan die werknemer betaal is, af te trek van die besoldiging van werknemer ten opsigte van wie betaling gedoen is;
- (ii) elke werkgewer moet 'n bedrag van R17,28 per week bydrae tot die Mediese Hulpfonds vir die Bounywerheid, Oos-Kaap, ten opsigte van 'n werknemer bedoel in paragraaf (a) (ii). 'n Werkgewer is daarop geregtig om die bedrag wat kragtens paragraaf (a) (ii) aan die werknemer betaal is, van die besoldiging van sodanige werknemer af te trek.

AAHANGSEL D

BEDINGINGSRAAD VIR DIE BOUNYWERHEID (SUID- EN OOS-KAAP)

KLOUSULE 14 (6): PENSIOEN- EN VOORSORGFONDS: TOELAE EN BYDRAE

- (i) **Toelaes:** Nieteenstaande enige ander vergoeding betaalbaar waarop 'n werknemer geregtig is, moet elke werkgewer in gebied B ten opsigte van die onderstaande werknemers in sy diens, 'n toelae betaal vir elke uur gewerk, (uitgesonderd oortyd) soos hieronder aangedui: Met dien verstande dat die toelae nie betaal word vir meer as 45 uur in 'n bepaalde week nie:

Kategorie werknemer	Per uur
(a) Konstruksiewerker vlak A	,97
(b) Konstruksiewerker vlak B:	
Ambagsmanne graad A, in alle ander ambagte	,92
Ambagsmanne graad A, in die ambagte skilder- en ruitwerk	,80
Ambagsmanne in ander ambagte	,76
(c) Konstruksiewerker vlak C:	,58
Masjienoppassers an saers, drywers van meganiese hanteeruitrusting	,62
(d) Konstruksiewerker vlak D	,52
(e) Konstruksiewerker vlak E	,47

<i>Kategorie werknemer</i>	<i>Per uur</i>
(f) Spesiale kategorie werknemers:	
Drywer in besit van 'n Kode 09-lisensie.....	,57
Wag.....	,47
(g) Werknemers betrokke by elektriese installering, wat elektriese montering en bedrading en werksaamhede wat daarmee gepaardgaan, insluit:	
(i) Meester installasie-elektrisiën.....	1,02
(ii) Installasie-elektrisiën.....	,92
(iii) Elektriese toetser vir enkelfase.....	,74
(iv) Elektriese ambagsman (ongelisensieerd).....	,74
(v) Elektriese operateur.....	,55
(vi) Elektriese algemene werknemer.....	,47

- (ii) **Bydraes:** Elke werkgever in Gebied B moet ten opsigte van elkeen van ondergenoemde werknemers in sy diens wat 27 gewone werkure gedurende 'n week gewerk het, ooreenkomstig die prosedure bedoel in klousule 14 (6) die volgende bedrae aan die Raad betaal:

<i>Kategorie werknemer</i>	<i>Per week</i>
(a) Konstruksiewerker vlak A.....	72,83
(b) Konstruksiewerker vlak B:	
Ambagsmanne Graad A, in alle ander ambagte.....	69,30
Ambagsmanne Graad A, in die ambagte skilder- en ruitwerk.....	59,72
Ambagsmanne in ander ambagte.....	57,08
(c) Konstruksiewerker vlak C.....	43,47
Masjienoppassers en saers, drywers van meganise hanteeruitrusting.....	46,43
(d) Konstruksiewerker vlak D.....	39,12
(e) Konstruksiewerker vlak E.....	35,28
(f) Spesiale kategorie werknemers:	
Drywer in besit van 'n kode 09-lisensie.....	42,97
Wag.....	35,09
(g) Werknemers betrokke by elektriese installering, wat elektriese bedrading en montering en werksaamhede wat daarmee gepaardgaan, insluit:	
(i) Meester installasie-elektrisiën.....	76,29
(ii) Installasie-elektrisiën.....	69,30
(iii) Elektriese toetser vir enkelfase.....	55,44
(iv) Elektriese ambagsman (ongelisensieerd).....	55,44
(v) Elektriese operateur.....	41,58
(vi) Elektriese algemene werknemer.....	35,38."

Onderteken te Port Elizabeth op hede die 16de dag van September 1999.

G. B. STEELE

East Cape Master Builders' and Allied Industries' Association

B. G. THOMPSON

Electrical Contracting and Allied Industries Association (Eastern Cape)

E. PLAATJIES

Construction and Allied Workers' Union

S. VAN RAYNER

Amalgamated Union of Building Trade Workers of South Africa

[wat die partye is by die Bedingingsraad vir die Bounywerheid (Suid- en Oos-Kaap)], in die teenwoordigheid van V. H. le Roux

Hoofsekretaris

CONTENTS**INHOUD**

No.	Page No.	Gazette No.	No.	Bladsy No.	Koerant No.
GOVERNMENT NOTICE			GOEWERMENTSKENNISGEWING		
Labour, Department of			Arbeid, Departement van		
<i>Government Notice</i>			<i>Goewermentskennisgewing</i>		
R. 1308 Labour Relations Act (66/1995): Bargaining Council for the Building Industry (Southern and Eastern Cape): Extension of Amendment of Collective Agreement to Non-parties.....	2	20598	R. 1308 Wet op Arbeidsverhoudinge (66/1995): Bedingsraad vir die Bounywerheid (Suid- en Oos-Kaap): Uitbreiding van Wysiging van Kollektiewe Ooreenkoms na Nie-partye.....	9	20598