



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Regulation Gazette

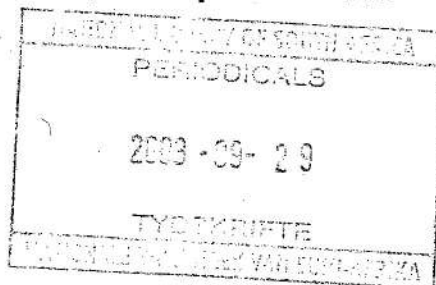
No. 7764

Regulasiekoerant

Vol. 459

Pretoria, 19 September 2003

No. 25456



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

CONTENTS

INHOUD

No.		Page No.	Gazette No.	No.		Bladsy No.	Koerant No.		
PROCLAMATION				PROKLAMASIE					
R. 64	Public Service Act (103/1994): Amendment of Schedule 2.....	4	25456	R. 64	Staatdienswet (103/1994): Wysiging van Bylae 2	4	25456		
GOVERNMENT NOTICES				GOEWERMENSKENNISGEWINGS					
Justice and Constitutional Development, Department of				Arbeid, Departement van					
Government Notice				Goewermentskennisgewings					
R. 1318	Administration of Estates Act (66/1965): Determination of charges.....	5	25456	R. 1284	Wet op Arbeidsverhoudinge (66/1995): Intrekking van Goewermentskennis- gewings: Nasionale Bedingsraad vir die Klerasievervaardigingsnywerheid: Hoof Kollektiewe Ooreenkoms vir die KwaZulu-Natal Streek	6	25456		
Labour, Department of				do.: Nasionale Bedingsraad vir die Klerasievervaardigingsnywerheid: Uitbreiding van Hoof Kollektiewe Herbekragtiging- en Wysigingsooreen- koms vir die KwaZulu-Natal Streek na Nie-partye.....				7	25456
Government Notices				R. 1285					
R. 1284	Labour Relations Act (66/1995): Cancellation of Government Notices: National Bargaining Council for the Clothing Manufacturing Industry: Main Collective Agreement for the KwaZulu- Natal Region	6	25456	do.: Intrekking van Goewermentskennis- gewings: Nasionale Bedingsraad vir die Klerasievervaardigingsnywerheid: Kollektiewe Ooreenkoms vir die Plattelandse Gebiede van die Wes-Kaap Streek.....				16	25456
R. 1285	do.: National Bargaining Council for the Clothing Manufacturing Industry: Extension of Main Collective Re-enact- ing and Amending Agreement for the KwaZulu-Natal Region to Non-parties	6	25456	R. 1286					
R. 1286	do.: Cancellation of Government Notices: National Bargaining Council for the Clothing Manufacturing Industry: Country Areas Collective Agreement for the Western Cape Region.....	15	25456	do.: Nasionale Bedingsraad vir die Klerasievervaardigingsnywerheid: Uit- breiding van Kollektiewe Herbekrag- tigings- en Wysigingsooreenkoms vir die Plattelandse Gebiede van die Wes-Kaap Streek na Nie-partye				16	25456
R. 1287	do.: National Bargaining Council for the Clothing Manufacturing Industry: Extension of Country Areas Collective Re-enacting and Amending Agreement for the Western Cape Region to Non- parties	16	25456	R. 1287					
R. 1288	do.: Cancellation of Government Notices: National Bargaining Council for the Clothing Manufacturing Industry: Provident Fund Collective Agreement for the KwaZulu-Natal Region	26	25456	do.: Intrekking van Goewerments- kennisgewings: Nasionale Bedings- raad vir die Klerasievervaardigings- nywerheid: Voorsorgfonds Ooreenkoms vir die KwaZulu-Natal Streek				26	25456
R. 1289	do.: National Bargaining Council for the Clothing Manufacturing Industry: Extension of Provident Fund Collective Re-enacting and Amending Agreement for the KwaZulu-Natal Region to Non- parties	26	25456	R. 1288					
R. 1290	do.: Cancellation of Government Notices: National Bargaining Council for the Clothing Manufacturing Industry: Collective Fund Agreement for the Northern Region.....	33	25456	do.: Nasionale Bedingsraad vir die Klerasievervaardigingsnywerheid: Uit- breiding van Voorsorgfonds Kollektiewe Herbekragtiging en Wysigingsooreen- koms vir die KwaZulu-Natal Streek na Nie-partye.....				27	25456
R. 1291	do.: National Bargaining Council for the Clothing Manufacturing Industry: Extension of Collective Fund Re-enact- ing Amending Agreement for the Northern Region to Non-parties.....	34	25456	R. 1289					
R. 1292	do.: Cancellation of Government Notices: National Bargaining Council for the Clothing Manufacturing Industry: Provident Fund Collective Agreement for the Western Cape Region.....	40	25456	do.: Intrekking van Goewermentskennis- gewings: Nasionale Bedingsraad vir die Klerasievervaardigingsnywerheid: Kollektiewe Fondsooreenkoms vir die Noordelike Streek.....				33	25456
R. 1293	do.: National Bargaining Council for the Clothing Manufacturing Industry: Extension of the Provident Fund Collective Re-enacting and Amending Agreement for the Western Cape Region to Non-parties.....	41	25456	R. 1290					
R. 1294	do.: Cancellation of Government Notices: National Bargaining Council for the Clothing Manufacturing Industry: Provident Fund Collective Agreement for the Eastern Cape Region.....	47	25456	do.: Nasionale Bedingsraad vir die Klerasievervaardigingsnywerheid: Uit- breiding van Voorsorgfonds Kollektiewe Herbekragtiging- en Wysigingsooreen- koms vir die Wes-Kaap Streek na Nie- partye				41	25456
				R. 1291					
				do.: Intrekking van Goewermentskennis- gewings: Nasionale Bedingsraad vir die Klerasievervaardigingsnywerheid: Voorsorgfonds Kollektiewe Ooreenkoms vir die Oos-Kaap Streek.....				48	25456
				R. 1292					
				do.: Nasionale Bedingsraad vir die Klerasievervaardigingsnywerheid: Uit- breiding van Voorsorgfonds Kollektiewe Herbekragtiging- en Wysigingsooreen- koms vir die Oos-Kaap Streek na Nie- partye				48	25456

R. 1295	do.: National Bargaining Council for the Clothing Manufacturing Industry: Extension of Provident Fund Collective Re-enacting and Amending Agreement for the Eastern Cape Region to Non-parties.....	48	25456	R. 1296	do.: Intrekking van Goewermentskennisgewings: Nasionale Bedingsraad vir die Klerasievervaardigingsnywerheid: Kollektiewe Ooreenkoms vir die Brei-afdeling van die Wes-Kaap Streek.....	51	25456
R. 1296	do.: Cancellation of Government Notices: National Bargaining Council for the Clothing Manufacturing Industry: Knitting Division Collective Agreement for the Western Cape Region	50	25456	R. 1297	do.: Nasionale Bedingsraad vir die Klerasievervaardigingsnywerheid: Uitbreiding van Brei-afdeling Kollektiewe Herbekragtiging en Wysigingsooreenkoms vir die Wes-Kaap Streek na Nie-partye	51	25456
R. 1297	do.: National Bargaining Council for the Clothing Manufacturing Industry: Extension of Knitting Division Collective Re-enacting and Amending Agreement for the Western Cape Region to Non-parties	51	25456	Justisie en Staatskundige Ontwikkeling, Departement van Goewermentskennisgewing			
				R. 1318	Boedelwet (66/1965): Bepaling van bedrae	6	25456

RECTIFICATION

Notice is hereby given that the **regulation number** in the preamble of *Government Gazette* No. 25379 of 5 September 2003, was incorrectly published. The number should read as follows: **Regulation Gazette No. 7767.**

RECTIFICATION

Notice is hereby given that the **regulation number** in the preamble of *Government Gazette* No. 25400 of 29 August 2003, was incorrectly published. The number should read as follows: **Regulation Gazette No. 7768.**

PROCLAMATION*by the****President of the Republic of South Africa*****No. R. 64, 2003****AMENDMENT OF SCHEDULE 2 TO THE PUBLIC SERVICE ACT, 1994**

In terms of section 7 (5) (a) (ii) of the Public Service Act, 1994 (promulgated under Proclamation No. 103 of 1994), I hereby amend, with effect from 27 December 2002, at the request of the Premier of the Western Cape, Schedule 2 to the said Act by the substitution for the designations of the Provincial Departments and Heads of Provincial Departments of the Provincial Administration of the Western Cape, in Columns 1 and 2 of Schedule 2, respectively, of the designations of the Provincial Departments and Heads of Provincial Departments of the said Provincial Administration as set out in Columns 1 and 2, respectively, below:

Column 1	Column 2
<i>Western Cape</i>	
Department of Agriculture	Head: Agriculture
Department of Community Safety	Head: Community Safety
Department of Cultural Affairs and Sport	Head: Cultural Affairs and Sport
Department of Economic Development and Tourism	Head: Economic Development and Tourism
Department of Education	Head: Education
Department of Environmental Affairs and Development Planning	Head: Environmental Affairs and Development Planning
Department of Finance	Head: Finance
Department of Health	Head: Health
Department of Housing	Head: Housing
Department of Local Government	Head: Local Government
Department of Social Services and Poverty Alleviation ...	Head: Social Services and Poverty Alleviation
Department of Transport and Public Works	Head: Transport and Public Works

Given under my Hand and the Seal of the Republic of South Africa at Cape Town, this Ninth day of September, Two Thousand and Three.

T. M. MBEKI**President**

By Order of the President-in-Cabinet:

G. J. FRASER-MOLEKETI**Minister of the Cabinet****PROKLAMASIE***van die****President van die Republiek van Suid-Afrika*****No. R. 64, 2003****WYSIGING VAN BYLAE 2 BY DIE STAATSDIENSWET, 1994**

Ingevolge artikel 7 (5) (a) (ii) van die Staatsdienswet, 1994 (gepromulgeer deur Proklamasie No. 103 van 1994), wysig ek hierby, met ingang van 27 Desember 2002, op versoek van die Premier van die Wes-Kaap, Bylae 2 by vermeldde Wet, deur die vervanging van die benamings van die Provinsiale Departemente en Hoofde van Provinsiale Departemente van die Provinsiale Administrasie van die Wes-Kaap, in Kolomme 1 en 2 van Bylae 2, onderskeidelik, met die benamings van die Provinsiale Departemente en Hoofde van Provinsiale Departemente van die vermeldde Provinsiale Administrasie, soos onderskeidelik uiteengesit in Kolomme 1 en 2 hieronder:

Kolom 1	Kolom 2
Wes-Kaap	
Departement van Behuising	Hoof: Behuising
Departement van Ekonomiese Ontwikkeling en Toerisme	Hoof: Ekonomiese Ontwikkeling en Toerisme
Departement van Finansies	Hoof: Finansies
Departement van Gemeenskapsveiligheid	Hoof: Gemeenskapsveiligheid
Departement van Gesondheid	Hoof: Gesondheid
Departement van Kultuursake en Sport	Hoof: Kultuursake en Sport
Departement van Landbou	Hoof: Landbou
Departement van Maatskaplike Dienste en Armoede-verligting	Hoof: Maatskaplike Dienste en Armoedeverligting
Departement van Omgewingsake en Ontwikkelings-beplanning	Hoof: Omgewingsake en Ontwikkelingsbeplanning
Departement van Onderwys	Hoof: Onderwys
Departement van Plaaslike Regering	Hoof: Plaaslike Regering
Departement van Vervoer en Openbare Werke	Hoof: Vervoer en Openbare Werke

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Kaapstad, op hede die Negende dag van September Tweeduisend en Drie.

T. M. MBEKI

President

Op las van die President-in-Kabinet:

G. J. FRASER-MOLEKETI

Minister van die Kabinet

GOVERNMENT NOTICES GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

No. R. 1318

19 September 2003

ADMINISTRATION OF ESTATES ACT, 1965 (ACT No. 66 OF 1965)

DETERMINATION OF AMOUNTS

The Minister for Justice and Constitutional Development, acting under sections 18 (3), 80 and 90 of the Administration of Estates Act, 1965 (Act No. 66 of 1965)—

- hereby determine for the purposes of the section of the said Act mentioned in Column 1 of the Schedule, the amount mentioned opposite thereto in Column 2 of the Schedule; and
- hereby repeal Government Notice No. R. 2333 of 1 December 1993.

P. M. MADUNA

Minister for Justice and Constitutional Development

SCHEDULE

Column 1	Column 2
Section 18 (3)	R125 000
Section 80	R100 000
Section 90	R100 000

No. R. 1318

19 September 2003

BOEDELWET, 1965 (WET No. 66 VAN 1965)

BEPALING VAN BEDRAE

Die Minister vir Justisie en Staatkundige Ontwikkeling, handelende kragtens artikels 18 (3), 80 en 90 van die Boedelwet, 1965 (Wet No. 66 van 1965)—

- (a) bepaal hierby, vir doeleindes van die artikel van genoemde Wet vermeld in Kolom 1 van die Bylae, die bedrag daarteenoor vermeld in Kolom 2 van die Bylae; en
- (b) herroep hiermee Goewermentskennisgewing No. R. 2333 van 1 Desember 1993.

P. M. MADUNA

Minister vir Justisie en Staatkundige Ontwikkeling

BYLAE

Kolom 1	Kolom 2
Artikel 18 (3)	R125 000
Artikel 80	R100 000
Artikel 90	R100 000

**DEPARTMENT OF LABOUR
DEPARTEMENT VAN ARBEID**

No. R. 1284

19 September 2003

LABOUR RELATIONS ACT, 1995

CANCELLATION OF GOVERNMENT NOTICES

**NATIONAL BARGAINING COUNCIL FOR THE CLOTHING MANUFACTURING INDUSTRY:
MAIN COLLECTIVE AGREEMENT FOR THE KWAZULU-NATAL REGION**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby, in terms of section 32 (7) of the Labour Relations Act, 1995, cancel Government Notices Nos. R. 225 of 14 February 2003 and R. 781 of 20 June 2003, with effect from 22 September 2003.

M. M. S. MDLADLANA

Minister of Labour

No. R. 1284

19 September 2003

WET OP ARBEIDSVARHOUDINGE, 1995

INTREKKING VAN GOEWERMENTSKENNISGEWINGS

**NASIONALE BEDINGINGSRAAD VIR DIE KLERASIEVERVAARDIGINGSNYWERHEID:
HOOF KOLLEKTIEWE OOREENKOMS VIR DIE KWAZULU-NATAL STREEK**

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, trek hierby, kragtens artikel 32 (7) van die Wet op Arbeidsverhoudinge, 1995, Goewermentskennisgewings Nos. R. 225 van 14 Februarie 2003 en R. 781 van 20 Junie 2003 in, met ingang van 22 September 2003.

M. M. S. MDLADLANA

Minister van Arbeid

No. R. 1285

19 September 2003

LABOUR RELATIONS ACT, 1995

**NATIONAL BARGAINING COUNCIL FOR THE CLOTHING MANUFACTURING INDUSTRY: EXTENSION OF MAIN
COLLECTIVE RE-ENACTING AND AMENDING AGREEMENT FOR THE KWAZULU-NATAL REGION 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 National Bargaining Council for the Clothing Manufacturing Industry 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 22 September 2003 and for the period ending 30 June 2005.

M. M. S. MDLADLANA
Minister of Labour

No. R. 1285

19 September 2003

WET OP ARBEIDSVARHOUDINGE, 1995

NASIONALE BEDINGINGSRAAD VIR DIE KLERASIEVERVAARDIGINGSNYWERHEID: UITBREIDING VAN HOOF KOLLEKTIEWE HERBEKRAFTIGING- EN WYSIGINGSOOREENKOMS VIR DIE KWAZULU-NATAL STREEK NA NIE-PARTYE

Ek, Mambathisi 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 Engelse Bylae hiervan verskyn en wat in die Nasionale Bedingingsraad vir die Klerasievervaardigingsnywerheid 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 22 September 2003 en vir die tydperk wat op 30 Junie 2005 eindig.

M. M. S. MDLADLANA
Minister van Arbeid

NB. 'n afskrif van die Ooreenkoms in Afrikaans is op aanvraag beskikbaar by die Raad.

SCHEDULE

NATIONAL BARGAINING COUNCIL FOR THE CLOTHING MANUFACTURING INDUSTRY

MAIN COLLECTIVE AGREEMENT FOR THE KWAZULU-NATAL REGION

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

Natal Clothing Manufacturers' Association

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

Southern African Clothing and Textile Workers' Union

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

being the parties to the National Bargaining Council for the Clothing Manufacturing Industry.

1. SCOPE OF APPLICATION OF THE AGREEMENT

(1) The terms of this Agreement shall be observed—

- (a) by all employers who are members of the employers' organisation and who 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 Magisterial Districts of Chatsworth, Durban, Inanda, Pinetown, Pietermaritzburg and Lower Tugela.

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

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

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

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

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

(4) Clauses 1 (1) (a), 2, 3 and 9 (5) of this Collective Agreement shall not apply to employers and employees who are not members of the employers' organisation and trade union, respectively.

2. PERIOD OF OPERATION OF AGREEMENT

This Agreement shall come into operation on such date as the Minister of Labour extends the Agreement to non-parties and shall remain in force for the period ending 30 June 2005.

3. SPECIAL PROVISIONS

The provisions contained in clauses 4 (5) of the Agreement published under Government Notice No. R. 225 of 14 February 2003 as amended by Government Notice No. R. 781 of 20 June 2003 (hereinafter referred to as the "Former Agreement"), as further amended and re-enacted from time to time, shall apply to employers and employees who are members of the parties to the Collective Agreement.

4. GENERAL PROVISIONS

The provisions contained in clauses 3 to 4 (4) and 5 to 41 of the Former Agreement (as further amended and re-enacted from time to time), shall apply to employers and employees.

5. CLAUSE 3 OF THE FORMER AGREEMENT: DEFINITIONS

(1) Delete the definition of "Bespoke Tailoring Industry".

(2) Substitute the following new definition for the definition of "Clothing Industry" or "Industry":

"Clothing Industry" or "Industry" means, without in any way limiting the ordinary meaning of the expression, the industry in which employers and their employees are associated for the making of all classes of the undermentioned items of apparel/clothing/garments:

Belts (manufactured from cloth), braces, brassieres, caps, collars, corsetry, cummerbunds, gloves, handkerchiefs, hats, hosiery (including ladies' stockings, pantihose and socks), knitted outerwear, knitted underwear; nightwear (including pyjamas), outerwear, protective wear (including overalls and wetsuits), scarves, shirts, suspenders, ties (including bowties), and underwear;

A. and includes—

- (a) all operations incidental thereto and consequent thereon and all succeeding processes or operations performed in connection therewith carried on by such employers and any of their employees, irrespective of the process or method used in such making and irrespective of whether such processes or operations are performed on the premises of such employers, or elsewhere;
- (b) all types of hand-sewing operations (including beading and embroidery), whether by hand and/or machine, on garments and/or parts of garments and irrespective of whether or not such operations are performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (c) any of the aforementioned items made for quantity production tailoring made to the order of any government department, provincial administration, S A Airways, Telkom, Transnet or local authority;
- (d) any part(s) of garments whether by means of a knitting process or otherwise;
- (e) design-room services, irrespective of whether or not such services are provided by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (f) fully-fashioned and/or semi-fashioned garments knitted on circular, flat or full-fashioned machinery;
- (g) screen process printing on garments and parts of garments performed in a clothing, textile and/or knitting establishment;
- (h) tailored outer garments for the execution of special measure orders from dealers whose customers' measurements are taken by or on the responsibility of such dealers;
- (i) the changing of labels, irrespective of whether or not such operation is performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (j) the making of buttonholes, irrespective of whether or not such operation is performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (k) the ironing of garments and/or parts of garments, irrespective of whether or not such ironing is done in the establishment in which such items were manufactured or in an establishment or by persons undertaking such work on newly manufactured garments on behalf of such employers and any of their employees;
- (l) the making up of garments from knitted fabric in the establishment in which the fabric was knitted;
- (m) the making up of sample garments and/or parts of garments, irrespective of whether or not such operation is performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (n) the marking-in and/or cutting of garments or parts of garments, irrespective of whether or not such operation(s) is(are) performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees; and
- (o) the packing of garments and/or parts of garments, irrespective of whether or not such packing is done in the establishment in which such items were manufactured or in an establishment or by persons undertaking such work with newly manufactured garments on behalf of such employers and any of their employees;

B. but excludes—

- (a) belts, braces, garters, suspenders and armlets manufactured from leather;
- (b) boxing gloves;
- (c) retail dressmaking, i.e., the making of single garments to the measurement of individual persons;
- (d) retail millinery, i.e., the making of hats in shops for sale in such shops and the making of single hats to the measurement of individual persons;
- (e) tailor-made garments for individual persons, provided such garments are not manufactured in a factory;".

(3) Insert the following definition after the definition of "examiner"

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

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

(4) Delete the definition of "knitted garments".**(5) Insert the following definition after the definition of "layer by machine":**

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

(6) Insert the following definitions after the definition of "presser":

"qualified employee" means in relation to an employee in the Industry, an employee other than a learner, labourer, watchman and driver of a motor vehicle;

"qualified wage" means the maximum wage prescribed in clause 4 (1) for an occupation;".

6. CLAUSE 4 OF THE FORMER AGREEMENT: WAGES**(1) Substitute the following new subclause for subclause 4 (1):**

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

Experience	Grade 1	Grade 2	Grade A	Head Cutter	Assist Head Cutter	Cutter/ Trimmer	B/Knife Cutter	Mechanic	Clerk	Watchman	Driver 1	Driver 2	Driver 3	Driver 4	Fore- person
0-6 months	326,85	325,15	342,50	790,05	632,05	311,45	348,35	391,75	360,85	444,75	417,75	456,50	532,30	642,95	608,70
7-12 months	361,55	430,40	441,00			347,90	386,85	449,90	407,40						
13-18 months	396,20					382,90	422,15	516,30	445,65						
19-24 months	495,25					424,60	462,30	582,70	530,65						
25-30 months						496,45	522,40	653,60							
31-36 months								718,65							
37-42 months								782,75							
>43 months								849,05							

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

(2) Insert the following new subclause (4) (a) and (4) (b) and re-number subclauses (4) and (5) to read (5) and (6), respectively.

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

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

(3) Delete the existing subclauses (6) and (7).

(4) In subclause (5) [now subclause (6)], substitute the expression "2003" for the expression "2002" where it appears.

7. CLAUSE 15 OF THE FORMER AGREEMENT: HOLIDAY LEAVE BENEFIT (ANNUAL BONUS) FUND ACCOUNT

"(1) In subclause 15 (3) (a), substitute the expression "3,47%" for the expression "2%".

(2) In subclause 15 (4) (a), substitute the expression "3,47%" for the expression "2%".

8. CLAUSE 25 OF THE FORMER AGREEMENT: COUNCIL FUNDS

In subclause (1), substitute the expression "R1,00 per week" for the expression "60 cents per week".

9. CLAUSE 38 OF THE FORMER AGREEMENT: DISPUTE PROCEDURES

Substitute the following for clause 38:

"CLAUSE 38: DISPUTE PROCEDURE

(1) Unless otherwise provided in the Council's Constitution or in this Collective Agreement, any dispute within the registered scope of the Council shall be resolved as set out below:

- (a) The General Secretary of the Council shall, after consultation with the Secretary of any relevant Regional Chamber, decide whether any dispute referred to the Council must be dealt with by the Council or the Regional Chamber.
- (b) The Council shall, from time to time, adopt by resolution, guidelines for the General Secretary of the Council to follow in the allocation of such disputes.
- (c) When any dispute is allocated to a Regional Chamber in terms of this clause, then such Regional Chamber shall have the same rights, powers and obligations as the Council.

(2) Accreditation

- (a) With a view to performing its dispute resolution functions in terms of section 51 (3) of the Act only, the Council shall by decision apply to the governing body of the CCMA for accreditation to perform these functions, as appropriate.
- (b) In the event that the Council fails to secure such accreditation, the Council may enter into an agreement with the CCMA in terms of which the CCMA is to perform, on behalf of the Council, its dispute resolution functions in terms of section 51 (3) of the Act.

(3) Panel of conciliators, arbitrators and senior arbitrators

(a) The Council shall appoint—

- (i) a panel of conciliators, for the purpose of conciliating disputes;
- (ii) a panel of arbitrators, for the purpose of determining disputes;
- (iii) a panel of senior arbitrators, for the purpose of determining disputes where—

- (aa) the nature of the questions of law raised by the dispute;
- (bb) the complexity of the dispute;
- (cc) conflicting arbitration awards, Labour Court precedents or Labour Appeal Court precedents; and/or
- (dd) the public interest

requires the appointment of a senior arbitrator and a party to the dispute requests that the Council refer the dispute for determination by a senior arbitrator.

- (b) The Council shall determine from time to time the number of persons to be appointed to the panels of conciliators and arbitrators.
- (c) All parties to the Council shall attempt to reach agreement on the persons to be appointed to the conciliation and arbitration panels. In the event that the parties to the Council cannot agree on the appointment of some or all of the conciliators and arbitrators, the following process shall be followed:
 - (i) The union parties to the Council shall prepare a list of nominees to fill the remaining vacancies on each panel, and the employer parties to the Council shall do likewise.
 - (ii) The lists prepared by the parties shall be exchanged, and the union parties shall rank the nominees of the employer parties in order of their preference, and the employer parties shall do likewise in respect of the nominees of the union parties.
 - (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' lists shall 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 General Secretary of the Council shall draw the name of the remaining appointee.
- (d) The arbitrators and senior arbitrators are to be appointed to the relevant 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 arbitrators and senior arbitrators not be re-appointed, all parties to the Council shall attempt to reach agreement on the persons to be appointed to the panel or senior panel, failing which the remaining vacancies shall be filled in accordance with the method described in subclause (3) (c) above.
- (e) Notwithstanding subclause (3) (d) above, the Council may remove a member of the panel of conciliators or arbitrators from office—
 - (i) for serious misconduct; or
 - (ii) owing to incapacity; or
 - (iii) if at least one half of the employer parties and at least one half of the union parties have voted in favour of the removal of that member from the panel.
- (f) If for any reason there is a vacancy on the panels, the Council may appoint a new member to the relevant panel in accordance with the method described in subclause (3) (c) above for the unexpired portion of the predecessor's term of office.
- (g) Subject to subclause (3) (i), a person may be appointed to one or more of the panel of conciliators or arbitrators or senior arbitrators.
- (h) An employee of the Council shall be eligible for appointment to the panel of conciliators and the panel of arbitrators: Provided that, should the Council have an interest in the dispute to be arbitrated, employees of the Council shall not be eligible to arbitrate the dispute.
- (i) An employee of the Council shall not be eligible for appointment to the panel of senior arbitrators.
- (j) Unless the parties to the dispute have agreed on a member of the relevant panel to conciliate or arbitrate their dispute or on a procedure to allocate disputes to the panel, the General Secretary of the Council or another designated official shall appoint a member of the relevant panel to conciliate or arbitrate the dispute on a rotational basis, with the next available conciliator, arbitrator or senior arbitrator being appointed, as the case may be, should any panel member(s) not be available in terms of such rotation.

(4) Disputes Involving non-parties to the Council

Any dispute contemplated in section 51 (3) of the Act, where any party to the dispute is not a party or a member of a party to the Council, shall be resolved by the Council in accordance with the following procedure:

- (a) *Referral and conciliation of disputes*
 - (i) Any of the parties to the dispute may refer the dispute in writing to the Council, setting out the nature of the dispute and the outcome sought.
 - (ii) The party who refers the dispute to the Council shall satisfy the Council that a copy of the referral has been served on all other parties to the dispute.
 - (iii) The General Secretary or other designated official shall appoint a member of the panel of conciliators who shall attempt to resolve the dispute through conciliation within thirty (30) days from the date of the Council's receiving the written referral of the dispute, or any extended period as agreed to in writing by the parties to the dispute.

- (iv) The conciliator may, during conciliation proceedings—
 - (aa) mediate the dispute;
 - (bb) conduct a fact-finding exercise; and
 - (cc) make a recommendation to the parties to the dispute, which may be in the form of a non-binding advisory arbitration award.
 - (v) Representation of a party to the dispute in the conciliation proceedings shall be in accordance with the provisions of the Act in relation to conciliation proceedings at the CCMA.
 - (vi) At the end of the thirty (30) day period, referred to in subclause (4) (a) (iii) above or any further period agreed to in writing by the parties to the dispute, the General Secretary or other designated official of the Council shall issue a certificate stating whether or not the dispute has been resolved.
 - (vii) Nothing in this Agreement shall prevent an officer or an employee of the Council from investigating the dispute or attempting to conciliate the dispute before the appointment of a conciliator.
- (b) *Adjudication of disputes referred to the Council for arbitration*
- (i) If the dispute remains unresolved after conciliation, any party to the dispute may request that the dispute be resolved through arbitration if—
 - (aa) the Act requires that the dispute be arbitrated; or
 - (bb) all the parties to the dispute consent to arbitration under the auspices of the Council, irrespective of whether such dispute may be subject to the jurisdiction of the CCMA or Labour Court in terms of the Act.
 - (ii) Upon receipt of such written request for arbitration from a party to the dispute, the General Secretary or other designated official of the Council shall appoint a member of the relevant panel of arbitrators to arbitrate the dispute.
 - (iii) Such written request for arbitration shall be made within the time period prescribed in the Act, provided that the arbitrator may permit a late request for arbitration on good cause shown.
 - (iv) The General Secretary or other designated official of the Council shall serve notice of the date, time and venue of the arbitration on the parties to the dispute.
 - (v) 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 the arbitrator to be frivolous or vexatious.
 - (vi) Any party who has a legal interest in the outcome of the arbitration and a party whose application in terms of subclause (4) (b) (v) above has been granted by the arbitrator, shall have the right to—
 - (aa) give evidence;
 - (bb) call witnesses;
 - (cc) question the witnesses of any other party;
 - (dd) address arguments to the arbitrator;
 - (ee) be represented in accordance with the provisions of sections 138 and 140 of the Act.
 - (vii) The arbitration proceedings shall be conducted in accordance with the provisions of the Code of Conduct for conciliators and arbitrators as agreed to by the Council, sections 138 and 142 and, if applicable, sections 139, 140 and 141 of the Act, read with the changes required by the context.
 - (viii) Representation at arbitration proceedings shall be in accordance with the provisions of the Act in relation to arbitration proceedings at the CCMA.
 - (ix) The arbitrator who has been appointed to resolve the dispute shall have the powers of a Commissioner in terms of sections 138 and 142 of the Act.
 - (x) Subject to the provisions of the Act, an award made by the arbitrator appointed to resolve the dispute shall be final and binding on the parties to the dispute. The arbitrator shall, however, have the power to vary, rescind or amend an award made by him/her on good cause shown or of his own accord; and without limiting the generality thereof, 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;
 - (bb) the award is ambiguous or contains an obvious error or omission;

(cc) the award was granted as a result of a mistake common to the parties to the proceedings.

- (xi) The Council shall serve the award, together with any written reasons, on all parties to the dispute.
- (xii) Upon receipt of a written request from a party to the dispute, the General Secretary or other designated official of the Council shall apply to the director to certify that the arbitration award is an award contemplated in section 143 (1) of the Act.

(5) Disputes involving parties to the Council

- (a) 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.
- (b) If the dispute between the parties is one which arises from negotiations entered into for the purpose of concluding a collective agreement in the Council or in any Regional Chamber, the General Secretary or other designated official shall appoint a member of the panel of conciliators, who shall attempt to resolve the dispute through conciliation within thirty (30) days from the date when the dispute was minuted or referred to the Council, or within any extended period as agreed to in writing by the parties to the dispute. If the dispute remains unresolved, the parties may exercise their rights in terms of the Act.
- (c) Any other dispute between parties to the Council which the Act requires to be arbitrated or which disputes would otherwise be adjudicated by the Labour Court, but which the parties to the dispute have agreed to arbitrate, including a dispute about the interpretation or application of the provisions of this Agreement and/or any collective agreement between the parties to the dispute, shall be resolved by the Council in accordance with the procedure set out in subclause (4) above, subject to subclause (5) (d) below.
- (d) Upon receipt of a written request for arbitration of a dispute about the interpretation or application of the provisions of this Agreement and/or any collective agreement between the parties to the dispute, the General Secretary or other designated official of the Council shall appoint a member of the panel of senior arbitrators to arbitrate the dispute.

(6) Compliance procedure and enforcement of collective agreements by Council

- (a) The Council shall request the Minister to appoint certain identified persons to be the designated agents of the Council to promote, monitor and enforce compliance with this Collective Agreement concluded in the Council.
- (b) Such designated agents shall perform the functions and have the powers set out in the Act, including sections 33 and 33A and Schedule 10 of the Act. It is specifically recorded that such designated agent shall have the power to issue a compliance order.
- (c) The Council shall take all reasonable steps necessary to ensure compliance with this Agreement and with the collective agreements concluded in the Council. If, whether through its own investigations or through any other source, it appears that the provisions of such an agreement may have been breached, then the following procedures shall apply to enforce compliance:
 - (i) The General Secretary of the Council shall appoint a designated agent to investigate the alleged breach and may delegate such powers of appointment to the Secretary of a Regional Chamber.
 - (ii) If, upon completion of the investigation, the designated agent has reason to believe that an agreement has been breached, the agent may endeavour to secure compliance with the agreement, in terms of guidelines of, or decisions by, the Council, where these exist, by—
 - (aa) publicising the contents of the agreement;
 - (bb) conducting inspections;
 - (cc) investigating complaints;
 - (dd) endeavouring to secure compliance with the agreement through conciliation; or
 - (ee) issuing a compliance order requiring any person bound by the agreement to comply with the agreement within a specified period.
 - (iii) The designated agent shall report all disputes concerning compliance with any provision of a collective agreement to the General Secretary of the Council and a designated official of the Regional Chamber.
 - (iv) Upon receipt of the report of an unresolved dispute, the General Secretary or other designated official of the Council or Regional Chamber may refer the unresolved dispute to arbitration.
 - (v) The General Secretary or other designated official of the Council or Regional Chamber shall appoint a member of the relevant panel of arbitrators to arbitrate the dispute.
 - (vi) The General Secretary or other designated agent of the Council or Regional chamber shall serve notice of the date, time and venue of the arbitration on the parties to the dispute.

- (vii) If a party to such an arbitration is not a party to the Council and objects to the appointment of a member of the panel, the General Secretary or other designated official of the Council or Regional Chamber shall request the CCMA to appoint an arbitrator, in which event the objecting party shall pay the arbitrator's fee to the Council, and the Council shall pay the fee set by the CCMA.
- (viii) The provisions of subclause (4) (b) (v) to (4) (b) (xii) above shall apply to an arbitration in terms of this clause.
- (ix) In addition, an arbitrator conducting an arbitration in terms of this clause may make any appropriate award including—
 - (aa) ordering any person to pay any amount owing in terms of a collective agreement;
 - (bb) imposing a fine for a failure to comply with a collective agreement in accordance with Item 29 of Schedule 7 and section 33A (13) of the Act;
 - (cc) charging a party to the arbitration an arbitration fee;
 - (dd) ordering a party to the arbitration to pay the costs of the arbitration;
 - (ee) confirming, varying or setting aside a compliance order issued by a designated agent;
 - (ff) any award contemplated in section 138 (9) of the Act;
 - (gg) any award in relation to the interest payable on any amount that a person is obliged to pay in terms of a collective agreement.
- (x) Subject to the provisions of the Act, an award in an arbitration conducted in terms of subclause (6) shall be final and binding on the parties to the dispute.
- (xi) The General Secretary or other designated official of the Council may apply to the director to certify that the arbitration award is an award contemplated in section 143 (1) of the Act.
- (xii) The provisions of this procedure shall stand in addition to any other legal remedy through which the Council may enforce a collective agreement."

10. CLAUSE 40

Renumber clause 40 of the Agreement published under Government Notice No. R. 781 of 20 June 2003 to read "Clause 41: Frequency of Negotiations and Industrial Action".

Signed at Cape Town on behalf of the parties this 7th day of August 2003.

C. O. JEFTHA

Chairperson

M. W. SIDDONS

Vice-Chairperson

W. A. ROBERTS

Acting General Secretary

No. R. 1286

19 September 2003

LABOUR RELATIONS ACT, 1995

CANCELLATION OF GOVERNMENT NOTICES

NATIONAL BARGAINING COUNCIL FOR THE CLOTHING MANUFACTURING INDUSTRY: COUNTRY AREAS COLLECTIVE AGREEMENT FOR THE WESTERN CAPE REGION

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby, in terms of section 32 (7) of the Labour Relations Act, 1995, cancel Government Notices Nos. R. 234 of 21 February 2003 and R. 795 and R. 796 of 20 June 2003, with effect from 22 September 2003.

M. M. S. MDLADLANA

Minister of Labour

No. R. 1286**19 September 2003**

WET OP ARBEIDSVERHOUDINGE, 1995

INTREKKING VAN GOEWERMENSKENNISGEWINGS

NASIONALE BEDINGINGSRAAD VIR DIE KLERASIEVERVAARDIGINGSNYWERHEID: KOLLEKTIEWE OOREENKOMS VIR DIE PLATTELANDSE GEBIEDE VAN DIE WES-KAAP STREEK

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, trek hierby, kragtens artikel 32 (7) van die Wet op Arbeidsverhoudinge, 1995, Goewermenskenningewing Nos. R. 234 van 21 Februarie 2003 en R. 795 en 796 van 20 Junie 2003 in, met ingang van 22 September 2003.

M. M. S. MDLADLANA
Minister van Arbeid

No. R. 1287**19 September 2003**

LABOUR RELATIONS ACT, 1995

NATIONAL BARGAINING COUNCIL FOR THE CLOTHING MANUFACTURING INDUSTRY: EXTENSION OF COUNTRY AREAS COLLECTIVE RE-ENACTING AND AMENDING AGREEMENT FOR THE WESTERN CAPE REGION 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 National Bargaining Council for the Clothing Manufacturing Industry 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 22 September 2003 and for the period ending 30 June 2004.

M. M. S. MDLADLANA
Minister of Labour

No. R. 1287**19 September 2003**

WET OP ARBEIDSVERHOUDINGE, 1995

NASIONALE BEDINGINGSRAAD VIR DIE KLERASIEVERVAARDIGINGSNYWERHEID: UITBREIDING VAN KOLLEKTIEWE HERBEKRAGTIGING- EN WYSIGINGSOOREENKOMS VIR DIE PLATTELANDSE GEBIEDE VAN DIE WES-KAAP STREEK 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 Engelse Bylae hiervan verskyn en wat in die Nasionale Bedingingsraad vir die Klerasievervaardigingsnywerheid 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 22 September 2003 en vir die tydperk wat op 30 Junie 2004 eindig.

M. M. S. MDLADLANA
Minister van Arbeid

SCHEDULE**NATIONAL BARGAINING COUNCIL FOR THE CLOTHING MANUFACTURING INDUSTRY
COUNTRY AREAS COLLECTIVE AGREEMENT FOR THE WESTERN CAPE REGION**

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

Cape Clothing 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 National Bargaining Council for the Clothing Manufacturing Industry.

1. SCOPE OF APPLICATION OF AGREEMENT

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

- (a) by all employers and employees who are members of the employers' organisations and the trade union, respectively;

- (b) in the Magisterial Districts of George and Worcester.
- (2) Notwithstanding the provisions of subclause (1), the terms of the Agreement shall—
 - (a) apply only in respect of employees for whom wages are prescribed in this Agreement;
 - (b) not apply to employees and working directors whose wages are more than R22 256 per annum.
- (3) Clauses 1 (1) (a), 2, 3 and 8 (5) of this Agreement shall not apply to employers and employees who are not members of the employers' organisation and trade union respectively.

2. PERIOD OF OPERATION OF AGREEMENT

This Agreement shall come into operation on such date as may be fixed by the Minister of Labour in terms of section 32 (2) of the Act, and shall remain in force until 30 June 2004.

3. SPECIAL PROVISIONS

The provisions of clauses 11 (4) (b), 14 (2), 19B, 23, 26 (13) (a) to (13) (g) (v) and 37 (5) (b) and (d) of the Agreement published under Government Notice No. R. 234 of 21 February 2003 as extended and amended by Government Notices Nos. R. 795 and R. 796 of 20 June 2003 (hereinafter referred to as the "Former Agreement"), as further extended and amended from time to time, shall apply to employers and employees.

4. GENERAL PROVISIONS

The provisions contained in clauses 3 to 11 (4) (a), 11 (5) to 14 (1), 15 to 19A, 20 to 22, 24, 25 to 26 (12), 26 (g) (vi) to 37 (4), 37 (5) (a), 37 (5) (c) and 37 (5) (e) to 41 of the Former Agreement (as further extended and amended from time to time), shall apply to employers and employees.

5. CLAUSE 3 OF THE FORMER AGREEMENT: DEFINITIONS

- (1) Substitute the following new definition for the definition of "Clothing Industry" or "Industry":

"Clothing Industry" or "Industry" means, without in any way limiting the ordinary meaning of the expression, the industry in which employers and their employees are associated for the making of all classes of the undermentioned items of apparel/clothing/garments:

Belts (manufactured from cloth), braces, brassieres, caps, collars, corsetry, cummerbunds, gloves, handkerchiefs, hats, hosiery (including ladies' stockings, pantihose and socks), knitted outerwear, knitted underwear; nightwear (including pyjamas), outerwear, protective wear (including overalls and wetsuits); scarves, shirts; suspenders, ties (including bowties), and underwear;

A. and includes—

- (a) all operations incidental thereto and consequent thereon and all succeeding processes or operations performed in connection therewith carried on by such employers and any of their employees, irrespective of the process or method used in such making and irrespective of whether such processes or operations are performed on the premises of such employers, or elsewhere;
- (b) all types of hand-sewing operations (including beading and embroidery), whether by hand and/or machine, on garments and/or parts of garments and irrespective of whether or not such operations are performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (c) any of the aforementioned items made for quantity production tailoring made to the order of any government department, provincial administration, S A Airways, Telkom, Transnet or local authority;
- (d) any part(s) of garments whether by means of a knitting process or otherwise;
- (e) design-room services, irrespective of whether or not such services are provided by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (f) fully-fashioned and/or semi-fashioned garments knitted on circular, flat or full-fashioned machinery;
- (g) screen process printing on garments and parts of garments performed in a clothing, textile and/or knitting establishment;
- (h) tailored outer garments for the execution of special measure orders from dealers whose customers' measurements are taken by or on the responsibility of such dealers;
- (i) the changing of labels, irrespective of whether or not such operation is performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (j) the making of buttonholes, irrespective of whether or not such operation is performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (k) the ironing of garments and/or parts of garments, irrespective of whether or not such ironing is done in the establishment in which such items were manufactured or in an establishment or by persons undertaking such work on newly manufactured garments on behalf of such employers and any of their employees;

- (l) the making up of garments from knitted fabric in the establishment in which the fabric was knitted;
- (m) the making up of sample garments and/or parts of garments, irrespective of whether or not such operation is performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (n) the marking-in and/or cutting of garments or parts of garments, irrespective of whether or not such operation(s) is (are) performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees; and
- (o) the packing of garments and/or parts of garments irrespective of whether or not such packing is done in the establishment in which such items were manufactured or in an establishment or by persons undertaking such work with newly manufactured garments on behalf of such employers and any of their employees;

B. but excludes—

- (a) belts, braces, garters, suspenders and armlets manufactured from leather;
 - (b) boxing gloves;
 - (c) retail dressmaking, i.e., the making of single garments to the measurement of individual persons;
 - (d) retail millinery, i.e., the making of hats in shops for sale in such shops and the making of single hats to the measurement of individual persons;
 - (e) tailor-made garments for individual persons, provided such garments are not manufactured in a factory."
- (2) Delete the definitions of "Clothing Section", "Knitting Division", "Knitting Section" and "shirt section".

6. CLAUSE 4 OF THE FORMER AGREEMENT: WAGES

- (1) In subclause (1), substitute the following for the existing wage schedule:

- "(1) Subject to the provisions of this Agreement, the minimum wages that shall be paid to and accepted by the undermentioned classes of employees shall be as follows:

	Wage per week R
Part A—Cutting Department	
Head Cutter	661,50
Pattern Maker:	
(a) Qualified	661,50
(b) Learner:	
First year:	
First six months of experience	365,50
Second six months of experience	404,00
Second year:	
First six months of experience	445,00
Second six months of experience	485,50
Third year:	
First six months of experience	530,00
Thereafter, the wage specified in (a), i.e.	661,50
Pattern Grader:	
(a) Qualified	531,50
(b) Learner:	
First year:	
First six months of experience	339,50
Second six months of experience	365,50
Second year:	
First six months of experience	390,00
Second six months of experience	416,00
Third year:	
First six months of experience	445,00
Second six months of experience	473,00
Thereafter, the wage specified in (a), i.e.	531,50

	Wage per week R
Cutter, Lay-Maker:	
(a) Qualified	511,50
(b) Learner:	
First year:	
First six months of experience	304,00
Second six months of experience	337,50
Second year:	
First six months of experience	371,00
Second six months of experience	407,00
Third year:	
First six months of experience	447,50
Second six months of experience	511,50
Interlining Cutter, Trimmer, Leather Cutter and Tie Cutter:	
(a) Qualified	367,00
(b) Learner:	
First year:	
First six months of experience	271,00
Second six months of experience	287,00
Second year:	
First six months of experience	303,00
Second six months of experience	319,50
Third year:	
First six months of experience	336,00
Thereafter, the wage specified in (a), i.e.	367,00
(c) If advanced to learner cutter:	
First six months from date of advancement	398,50
Second six months from date of advancement	447,50
Thereafter, the wage specified for a qualified cutter, i.e.	511,50
Layer-up:	
(a) Qualified	311,00
First year:	
First six months of experience	262,00
Second six months of experience	271,00
Second year:	
First six months of experience	282,50
Thereafter, the wage specified in (a), i.e.	311,00
(b) If advanced to learner cutter:	
First six months from date of advancement	311,00
Second six months from date of advancement	371,00
Third six months from date of advancement	407,00
Second six months from date of advancement	447,50
Thereafter, the wage specified for a qualified cutter, i.e.	511,50
Clicker:	
(a) Qualified	378,50
(b) Learner:	
First year of experience	279,00
Second year of experience	319,50
Thereafter, the wage specified in (a), i.e.	378,50
Tracer:	
(a) Qualified	354,50
(b) Learner:	
First year:	
First six months of experience	279,00

	Wage per week R
Second six months of experience	299,00
Second year:	
First six months of experience	318,00
Thereafter, the wage specified in (a), i.e.	354,50
Part B—Factory operatives	
Clothing Machine Mechanic:	
(a) Qualified	661,50
(b) Learner:	
First year:	
First six months of experience	365,50
Second six months of experience	404,00
Second year:	
First six months of experience	445,00
Second six months of experience	485,50
Third year:	
First six months of experience	530,00
Second six months of experience	574,00
Thereafter, the wage specified in (a), i.e.	661,50
Grade A employee:	
(a) Qualified	404,00
(b) Learner:	
First year:	
First six months of experience	280,50
Second six months of experience	302,50
Second year:	
First six months of experience	322,50
Second six months of experience	343,50
Third year:	
First six months of experience	367,00
Thereafter, the wage specified in (a), i.e.	404,00
Grade B employee:	
(a) Qualified	339,50
(b) Learner:	
First year:	
First six months of experience	275,50
Second six months of experience	290,50
Second year:	
First six months of experience	306,00
Thereafter, the wage specified in (a), i.e.	339,50
(c) If advanced to Grade A employee:	
First six months from date of advancement.....	339,50
Second six months from date of advancement.....	343,50
Third six months from date of advancement.....	367,00
Thereafter, the wage specified for a qualified Grade A employee, i.e.	404,00
Grade C employee:	
(a) Qualified	302,50
(b) Learner:	
First year:	
First six months of experience	269,00
Second six months of experience	278,00
Thereafter, the wage specified in (a), i.e.	302,50

	Wage per week R
(c) If advanced to Grade B employee:	
First six months from date of advancement.....	302,50
Second six months from date of advancement.....	306,00
Thereafter, the wage specified for a qualified Grade B employee, i.e.	339,50
Underpresser, Blocker:	
(a) Qualified	306,00
(b) Learner:	
First year:	
First six months of experience	262,00
Second six months of experience	271,00
Second year:	
First six months of experience	282,50
Second six months of experience	306,00
(c) If advanced to learner presser:	
First six months from date of advancement.....	306,00
Second six months from date of advancement.....	367,00
Thereafter, the wage specified for a qualified Grade A employee, i.e.	404,00
Part C—Clerical employees	
Clerck:	
(a) Qualified	447,50
(b) Learner:	
First year of experience.....	325,00
Second year of experience	356,50
Third year:	
First six months of experience	390,50
Thereafter, the wage specified in (a), i.e.....	447,50
Factory Clerk:	
(a) Qualified	331,00
(b) Learner:	
First year of experience.....	261,00
Second year of experience	279,50
Third year:	
First six months of experience	301,50
Thereafter, the wage specified in (a), i.e.....	331,00
Part D—General	
Boiler Attendant	312,50
Despatch Packer	323,00
General Worker	301,50
Labourer	306,00
Motor vehicle driver of a vehicle, the unladen mass of which, together with the unladen mass of any trailer or trailers drawn by such vehicle is as follows:	
(a) Under 2 720 kg.....	340,00
(b) 2 720 kg and over	390,00
Supervisor: Quality Controller and Instructor	416,00
Traveller's Driver	340,00
Watchman or Caretaker, whose ordinary hours of work are—	
(a) less than 60 hours per week.....	353,00
(b) 60 hours per week.....	371,00

(2) In subclause (10), substitute the expression "1,87%" for the expression "1,5%".

(3) In subclause (11), substitute the expression "Government Notice No. R. 234 of 21 February 2003" for the expression "Government Notice No. R. 2598 of 11 September 1992", where it occurs.

7. CLAUSE 22 OF THE FORMER AGREEMENT: EXPENSES OF THE COUNCIL AND REGIONAL CHAMBER

- (1) In subclause (1), substitute the expression "88 cents per week" for the expression "48 cents per week".

8. CLAUSE 37 OF THE FORMER AGREEMENT: DISPUTE PROCEDURE

Substitute the following for clause 37:

"CLAUSE 37: DISPUTE PROCEDURE

- (1) Unless otherwise provided in the Council's Constitution or in this Agreement, any dispute within the registered scope of the Council shall be resolved as set out below:
- (a) The General Secretary of the Council shall, after consultation with the Secretary of any relevant Regional Chamber, decide whether any dispute referred to the Council must be dealt with by the Council or the Regional Chamber.
 - (b) The Council shall, from time to time, adopt by resolution, guidelines for the General Secretary of the Council to follow in the allocation of such disputes.
 - (c) When any dispute is allocated to a Regional Chamber in terms of this clause then such Regional Chamber shall have the same rights, powers and obligations as the Council.
- (2) **Accreditation**
- (a) With a view to performing its dispute resolution functions in terms of section 51 (3) of the Act only, the Council shall by decision apply to the governing body of the CCMA for accreditation to perform these functions, as appropriate.
 - (b) In the event that the Council fails to secure such accreditation, the Council may enter into an agreement with the CCMA in terms of which the CCMA is to perform, on behalf of the Council, its dispute resolution functions in terms of section 51 (3) of the Act.
- (3) **Panel of conciliators, arbitrators and senior arbitrators**
- (a) The Council shall appoint—
 - (i) a panel of conciliators, for the purpose of conciliating disputes;
 - (ii) a panel of arbitrators, for the purpose of determining disputes;
 - (iii) a panel of senior arbitrators, for the purpose of determining disputes where—
 - (aa) the nature of the questions of law raised by the dispute;
 - (bb) the complexity of the dispute;
 - (cc) conflicting arbitration awards, Labour Court precedents or Labour Appeal Court precedents; and/or
 - (dd) the public interest

requires the appointment of a senior arbitrator and a party to the dispute requests that the Council refer the dispute for determination by a senior arbitrator.
 - (b) The Council shall determine from time to time the number of persons to be appointed to the panels of conciliators and arbitrators.
 - (c) All parties to the Council shall attempt to reach agreement on the persons to be appointed to the conciliation and arbitration panels. In the event that the parties to the Council cannot agree on the appointment of some or all of the conciliators and arbitrators, the following process shall be followed:
 - (i) The union parties to the Council shall prepare a list of nominees to fill the remaining vacancies on each panel, and the employer parties to the Council shall do likewise.
 - (ii) The lists prepared by the parties shall be exchanged, and the union parties shall rank the nominees of the employer parties in order of their preference, and the employer parties shall do likewise in respect of the nominees of the union parties.
 - (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' lists shall 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 General Secretary of the Council shall draw the name of the remaining appointee.

- (d) The arbitrators and senior arbitrators are to be appointed to the relevant 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 arbitrators and senior arbitrators not be re-appointed, all parties to the Council shall attempt to reach agreement on the persons to be appointed to the panel or senior panel, failing which the remaining vacancies shall be filled in accordance with the method described in subclause (3) (c) above.
 - (e) Notwithstanding subclause (3) (d) above, the Council may remove a member of the panel of conciliators or arbitrators from office—
 - (i) for serious misconduct; or
 - (ii) owing to incapacity; or
 - (iii) if at least one half of the employer parties and at least one half of the union parties have voted in favour of the removal of that member from the panel.
 - (f) If for any reason there is a vacancy on the panels, the Council may appoint a new member to the relevant panel in accordance with the method described in subclause (3) (c) above for the unexpired portion of the predecessor's term of office.
 - (g) Subject to subclause (3) (i), a person may be appointed to one or more of the panels of conciliators or arbitrators or senior arbitrators.
 - (h) An employee of the Council shall be eligible for appointment to the panel of conciliators and the panel of arbitrators: Provided that, should the Council have an interest in the dispute to be arbitrated, employees of the Council shall not be eligible to arbitrate the dispute.
 - (i) An employee of the Council shall not be eligible for appointment to the panel of senior arbitrators.
 - (j) Unless the parties to the dispute have agreed on a member of the relevant panel to conciliate or arbitrate their dispute or on a procedure to allocate disputes to the panel, the General Secretary of the Council or another designated official shall appoint a member of the relevant panel to conciliate or arbitrate the dispute on a rotational basis, with the next available conciliator, arbitrator or senior arbitrator being appointed, as the case may be, should any panel member(s) not be available in terms of such rotation.
- (4) *Disputes involving non-parties to the Council***
- Any dispute contemplated in section 51 (3) of the Act, where any party to the dispute is not a party or a member of a party to the Council shall be resolved by the Council in accordance with the following procedure:
- (a) *Referral and conciliation of disputes*
 - (i) Any of the parties to the dispute may refer the dispute in writing to the Council, setting out the nature of the dispute and the outcome sought.
 - (ii) The party who refers the dispute to the Council shall satisfy the Council that a copy of the referral has been served on all other parties to the dispute.
 - (iii) The General Secretary or other designated official shall appoint a member of the panel of conciliators who shall attempt to resolve the dispute through conciliation within thirty (30) days from the date of the Council's receiving the written referral of the dispute, or any extended period as agreed to in writing by the parties to the dispute.
 - (iv) The conciliator may, during conciliation proceedings—
 - (aa) mediate the dispute;
 - (bb) conduct a fact-finding exercise; and
 - (cc) make a recommendation to the parties to the dispute, which may be in the form of a non-binding advisory arbitration award.
 - (v) Representation of a party to the dispute in the conciliation proceedings shall be in accordance with the provisions of the Act in relation to conciliation proceedings at the CCMA.
 - (vi) At the end of the thirty (30) day period, referred to in subclause (4) (a) (iii) above or any further period agreed to in writing by the parties to the dispute, the General Secretary or other designated official of the Council shall issue a certificate stating whether or not the dispute has been resolved.
 - (vii) Nothing in this Agreement shall prevent an officer or an employee of the Council from investigating the dispute or attempting to conciliate the dispute before the appointment of a conciliator.
 - (b) *Adjudication of disputes referred to the Council for arbitration*
 - (i) If the dispute remains unresolved after conciliation, any party to the dispute may request that the dispute be resolved through arbitration if—
 - (aa) the Act requires that the dispute be arbitrated; or

- (bb) all the parties to the dispute consent to arbitration under the auspices of the Council, irrespective of whether such dispute may be subject to the jurisdiction of the CCM or Labour Court in terms of the Act.
- (ii) Upon receipt of such written request for arbitration from a party to the dispute, the General Secretary or other designated official of the Council shall appoint a member of the relevant panel of arbitrators to arbitrate the dispute.
- (iii) Such written request for arbitration shall be made within the time period prescribed in the Act, provided that the arbitrator may permit a late request for arbitration on good cause shown.
- (iv) The General Secretary or other designated official of the Council shall serve notice of the date, time and venue of the arbitration on the parties to the dispute.
- (v) 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 the arbitrator to be frivolous or vexatious.
- (vi) Any party who has a legal interest in the outcome of the arbitration and a party whose application in terms of subclause (4) (b) (v) above has been granted by the arbitrator, shall have the right to—
 - (aa) give evidence;
 - (bb) call witnesses;
 - (cc) question the witnesses of any other party;
 - (dd) address arguments to the arbitrator;
 - (ee) be represented in accordance with the provisions of sections 138 and 140 of the Act.
- (vii) The arbitration proceedings shall be conducted in accordance with the provisions of the Code of Conduct for conciliators and arbitrators as agreed to by the Council, sections 138 and 142 and, if applicable, sections 139, 140 and 141 of the Act, read with the changes required by the context.
- (viii) Representation at arbitration proceedings shall be in accordance with the provisions of the Act in relation to arbitration proceedings at the CCMA.
- (ix) The arbitrator who has been appointed to resolve the dispute shall have the powers of a Commissioner in terms of sections 138 and 142 of the Act.
- (x) Subject to the provisions of the Act, an award made by the arbitrator appointed to resolve the dispute shall be final and binding on the parties to the dispute. The arbitrator shall, however, have the power to vary, rescind or amend an award made by him/her on good cause shown or of his own accord; and, without limiting the generality thereof, 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;
 - (bb) the award is ambiguous or contains an obvious error or omission;
 - (cc) the award was granted as a result of a mistake common to the parties to the proceedings.
- (xi) The Council shall serve the award, together with any written reasons, on all parties to the dispute.
- (xii) Upon receipt of a written request from a party to the dispute, the General Secretary or other designated official of the Council shall apply to the director to certify that the arbitration award is an award contemplated in section 143 (1) of the Act.

(5) Disputes involving parties to the Council

- (a) 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.
- (b) If the dispute between the parties is one which arises from negotiations entered into for the purpose of concluding a collective agreement in the Council or in any Regional Chamber, the General Secretary or other designated official shall appoint a member of the panel of conciliators, who shall attempt to resolve the dispute through conciliation within thirty (30) days from the date when the dispute was minuted or referred to the Council, or within any extended period as agreed to in writing by the parties to the dispute. If the dispute remains unresolved, the parties may exercise their rights in terms of the Act.

- (c) Any other dispute between parties to the Council, which the Act requires to be arbitrated or which disputes would otherwise be adjudicated by the Labour Court, but which the parties to the dispute have agreed to arbitrate, including a dispute about the interpretation or application of the provisions of this Agreement and/or any collective agreement between the parties to the dispute, shall be resolved by the Council in accordance with the procedure set out in subclause (4) above, subject to the proviso in subclause (5) (d) below.
- (d) Upon receipt of a written request for arbitration of a dispute about the interpretation or application of the provisions of this Agreement and/or any collective agreement between the parties to the dispute, the General Secretary or other designated official of the Council shall appoint a member of the panel of senior arbitrators to arbitrate the dispute.

(ii) **Compliance procedure and enforcement of collective agreements by Council**

- (a) The Council shall request the Minister to appoint certain identified persons to be the designated agents of the Council to promote, monitor and enforce compliance with this Collective Agreement concluded in the Council.
- (b) Such designated agents shall perform the functions and have the powers set out in the Act, including sections 33 and 33A and Schedule 10 of the Act. It is specifically recorded that such a designated agent shall have the power to issue a compliance order.
- (c) The Council shall take all reasonable steps necessary to ensure compliance with this Agreement and with the collective agreements concluded in the Council. If, whether through its own investigations or through any other source, it appears that the provisions of such an agreement may have been breached, then the following procedures shall apply to enforce compliance:
 - (i) The General Secretary of the Council shall appoint a designated agent to investigate the alleged breach and may delegate such powers of appointment to the Secretary of a Regional Chamber.
 - (ii) If, upon completion of the investigation, the designated agent has reason to believe that an agreement has been breached, the agent may endeavour to secure compliance with the agreement, in terms of guidelines of, or decisions by, the Council, where these exist, by—
 - (aa) publicising the contents of the agreement;
 - (bb) conducting inspections;
 - (cc) investigating complaints
 - (dd) endeavouring to secure compliance with the agreement through conciliation; or
 - (ee) issuing a compliance order requiring any person bound by the agreement to comply with the agreement within a specified period.
 - (iii) The designated agent shall report all disputes concerning compliance with any provision of a collective agreement to the General Secretary of the Council and a designated official of the Regional Chamber.
 - (iv) Upon receipt of the report of an unresolved dispute, the General Secretary or other designated official of the Council or Regional Chamber may refer the unresolved dispute to arbitration.
 - (v) The General Secretary or other designated official of the Council or Regional Chamber shall appoint a member of the relevant panel of arbitrators to arbitrate the dispute.
 - (vi) The General Secretary or other designated agent of the Council or Regional Chamber shall serve notice of the date, time and venue of the arbitration on the parties to the dispute.
 - (vii) If a party to such an arbitration is not a party to the Council and objects to the appointment of a member of the panel, the General Secretary or other designated official of the Council or Regional Chamber shall request the CCMA to appoint an arbitrator, in which event the objecting party shall pay the arbitrator's fee to the Council, and the Council shall pay the fee set by the CCMA.
 - (viii) The provisions of subclause (4) (b) (v) to (4) (b) (xii) above shall apply to an arbitration in terms of this clause.
 - (ix) In addition, an arbitrator conducting an arbitration in terms of this clause may make any appropriate award including—
 - (aa) ordering any person to pay any amount owing in terms of a collective agreement;
 - (bb) imposing a fine for a failure to comply with a collective agreement in accordance with Item 29 of Schedule 7 and section 33A (13) of the Act;
 - (cc) charging a party to the arbitration an arbitration fee;
 - (dd) ordering a party to the arbitration to pay the costs of the arbitration;
 - (ee) confirming, varying or setting aside a compliance order issued by a designated agent;
 - (ff) any award contemplated in section 138 (9) of the Act;

- (gg) any award in relation to the interest payable on any amount that a person is obliged to pay in terms of a collective agreement.
- (x) Subject to the provisions of the Act, an award in an arbitration conducted in terms of this subclause shall be final and binding on the parties to the dispute.
- (xi) The General Secretary or other designated official of the Council may apply to the director to certify that the arbitration award is an award contemplated in section 143 (1) of the Act.
- (xii) The provisions of this procedure stand in addition to any other legal remedy through which the Council may enforce a collective agreement."

Signed at Cape Town on behalf of the parties this 10th day of July 2003.

C. O. JEFTHA
Chairperson

M. W. SIDDONS
Vice-Chairperson

W. A. ROBERTS
Acting General Secretary

No. R. 1288

19 September 2003

LABOUR RELATIONS ACT, 1995

CANCELLATION OF GOVERNMENT NOTICES

**NATIONAL BARGAINING COUNCIL FOR THE CLOTHING MANUFACTURING INDUSTRY:
PROVIDENT FUND COLLECTIVE AGREEMENT FOR THE KWAZULU-NATAL REGION**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby, in terms of section 32 (7) of the Labour Relations Act, 1995, cancel Government Notices Nos. R. 399 of 28 March 2003 and R. 782 of 20 June 2003, with effect from 22 September 2003.

M. M. S. MDLADLANA
Minister of Labour

No. R. 1288

19 September 2003

WET OP ARBEIDSVIRHOUDINGE, 1995

INTREKKING VAN GOEWERMENSKENNISGEWINGS

**NASIONALE BEDINGINGSRAAD VIR DIE KLERASIEVERVAARDIGINGSNYWERHEID:
VOORSORGDOONDS OOREENKOMS VIR DIE KWAZULU-NATAL STREEK**

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, trek hierby kragtens artikel 32 (7) van die Wet op Arbeidsverhoudinge, 1995, Goewermenskennisgewings Nos. R. 399 van 28 Maart 2003 en R. 782 van 20 Junie 2003 in, met ingang van 22 September 2003.

M. M. S. MDLADLANA
Minister van Arbeid

No. R. 1289

19 September 2003

LABOUR RELATIONS ACT, 1995

NATIONAL BARGAINING COUNCIL FOR THE CLOTHING MANUFACTURING INDUSTRY: EXTENSION OF PROVIDENT FUND COLLECTIVE RE-ENACTING AND AMENDING AGREEMENT FOR THE KWAZULU-NATAL REGION 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 National Bargaining Council for the Clothing Manufacturing Industry 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 22 September 2003 and for the period ending 30 June 2005.

M. M. S. MDLADLANA
Minister of Labour

No. R. 1289

19 September 2003

WET OP ARBEIDSVARHOUDINGE, 1995

NASIONALE BEDINGINGSRAAD VIR DIE KLERASIEVERVAARDIGINGSNYWERHEID: UITBREIDING VAN VOORSORGFONDS KOLLEKTIEWE HERBEKRAKTIGING EN WYSIGINGSOOREENKOMS VIR DIE KWAZULU-NATAL STREEK 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 Engelse Bylae hiervan verskyn en wat in die Nasionale Bedingingsraad vir die Klerasievervaardigingsnywerheid 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 22 September 2003 en vir die tydperk wat op 30 Junie 2005 eindig.

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

NB: 'n Afskrif van die Ooreenkoms in Afrikaans is op aanvraag beskikbaar by die Raad.

SCHEDULE**NATIONAL BARGAINING COUNCIL FOR THE CLOTHING MANUFACTURING INDUSTRY
AMENDING PROVIDENT FUND COLLECTIVE AGREEMENT FOR THE KWAZULU-NATAL REGION**

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

Natal Clothing Manufacturers' Association

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

Southern African Clothing and Textile Workers' Union

(hereinafter referred to as the "employees" or the "trade union"), of the other part, being the parties to the National Bargaining Council for the Clothing Manufacturing Industry.

1. SCOPE OF APPLICATION

- (1) The terms of this Agreement shall be observed in the Clothing Industry—
 - (a) by all employers who are members of the employers' organisation and by all employees who are members of the trade union and who are engaged and employed in the Industry;
 - (b) in the Magisterial Districts of Chatsworth, Durban, Inanda, Pinetown, Pietermaritzburg and Lower Tugela.
- (2) Notwithstanding the provisions of subclause (1), the terms of the Agreement shall—
 - (a) apply in respect of employees for whom wages are prescribed in the Main Agreement; and
 - (b) not apply in respect of employees whose basic wages exceed two and a half times the wage rate for a qualified Grade 1 employee or whose occupation is monthly paid and of a managerial, specialist technical or non-production related nature.
- (3)
 - (a) The purpose of this Agreement is to make provision for retirement, disability, death and retrenchment benefits.
 - (b) Employers employing five employees or fewer shall, upon application to the Council in terms of clause 15 of the Agreement published under Government Notice No. R. 1516 of 27 November 1998 be exempted from this Agreement.
 - (c) Where an employer or an employee can satisfy the Council that any of the provisions of this Agreement are restricting entrepreneurial initiative and/or employment opportunities such employer or employee may apply to the Council for exemption from those specified provisions in terms of clause 15 of the Agreement.
 - (d) Clauses 1 (1) (a), 2, 3 and 9 (5) of this Collective Agreement shall not apply to employers and employees who are not members of the employers' organisation and trade union, respectively.

2. PERIOD OF OPERATION OF AGREEMENT

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

3. SPECIAL PROVISIONS

The provisions of clause 2 of the Agreement published under Government Notice No. R. 399 of 28 March 2003, as amended by Government Notice No. R. 782 of 20 June 2003 (hereinafter referred to as the "Former Agreement"), as further amended and re-enacted from time to time, shall apply to employers and employees.

4. GENERAL PROVISIONS

The provisions contained in clauses 3 to 20 of the Former Agreement (as further amended and re-enacted from time to time), shall apply to employers and employees.

5. CLAUSE 3 OF THE FORMER AGREEMENT: DEFINITIONS

Substitute the following new definition for the definition of "Clothing Industry" or "Industry":

"Clothing Industry" or "Industry" means, without in any way limiting the ordinary meaning of the expression, the industry in which employers and their employees are associated for the making of all classes of the undermentioned items of apparel/clothing/garments:

Belts (manufactured from cloth), braces, brassieres, caps, collars, corsetry, cummerbunds, gloves, handkerchiefs, hats, hosiery (including ladies' stockings, pantihose and socks), knitted outerwear, knitted underwear; nightwear (including pyjamas), outerwear, protective wear (including overalls and wetsuits), scarves, shirts, suspenders, ties (including bowties), and underwear;

A. and includes—

- (a) all operations incidental thereto and consequent thereon and all succeeding processes or operations performed in connection therewith carried on by such employers and any of their employees, irrespective of the process or method used in such making and irrespective of whether such processes or operations are performed on the premises of such employers, or elsewhere;
- (b) all types of hand-sewing operations (including beading and embroidery), whether by hand and/or machine, on garments and/or parts of garments and irrespective of whether or not such operations are performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (c) any of the aforementioned items made for quantity production tailoring made to the order of any government department, provincial administration, S A Airways, Telkom, Transnet or local authority;
- (d) any part(s) of garments whether by means of a knitting process or otherwise;
- (e) design-room services, irrespective of whether or not such services are provided by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (f) fully-fashioned and/or semi-fashioned garments knitted on circular, flat or full-fashioned machinery;
- (g) screen process printing on garments and parts of garments performed in a clothing, textile and/or knitting establishment;
- (h) tailored outer garments for the execution of special measure orders from dealers whose customers' measurements are taken by or on the responsibility of such dealers;
- (i) the changing of labels, irrespective of whether or not such operation is performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (j) the making of buttonholes, irrespective of whether or not such operation is performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (k) the ironing of garments and/or parts of garments, irrespective of whether or not such ironing is done in the establishment in which such items were manufactured or in an establishment or by persons undertaking such work on newly manufactured garments on behalf of such employers and any of their employees;
- (l) the making up of garments from knitted fabric in the establishment in which the fabric was knitted;
- (m) the making up of sample garments and/or parts of garments, irrespective of whether or not such operation is performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (n) the marking-in and/or cutting of garments or parts of garments, irrespective of whether or not such operation(s) is (are) performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees; and
- (o) the packing of garments and/or parts of garments, irrespective of whether or not such packing is done in the establishment in which such items were manufactured or in an establishment or by persons undertaking such work with newly manufactured garments on behalf of such employers and any of their employees;

B. but excludes—

- (a) belts, braces, garters, suspenders and armlets manufactured from leather;
- (b) boxing gloves;
- (c) retail dressmaking, i.e., the making of single garments to the measurement of individual persons;
- (d) retail millinery, i.e., the making of hats in shops for sale in such shops and the making of single hats to the measurement of individual persons;
- (e) tailor-made garments for individual persons, provided such garments are not manufactured in a factory;".

6. CLAUSE 6 OF THE FORMER AGREEMENT: CONTRIBUTIONS

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

"(2) In addition to the amount so deducted, the employer shall contribute to the Fund—

- (a) 5% (five per cent) of an employee's basic weekly wage, as defined in this Agreement, provided that the employee worked during the week or any part thereof, which contribution shall be applied in accordance with subclause (12); and
- (b) 2% (two per cent) of an employee's basic weekly wage, as defined in this Agreement, irrespective of whether or not the employee actually worked during the week and irrespective of whether or not the employee is on maternity leave, sick leave or short time, which contribution shall be allocated to the Risk Reserve Account in terms of clause 7 (1) (B) (a) (i) (aa) and applied in accordance with clause 7 (1) (B) (a) (iii)."

7. CLAUSE 7 OF THE FORMER AGREEMENT: FINANCES

In subclause (1) (B) (b) (iii) (dd), delete the expression "for the period ending 30 June 2002".

8. CLAUSE 15 OF THE FORMER AGREEMENT: EXEMPTIONS

Delete subclause (9).

9. CLAUSE 18 OF THE FORMER AGREEMENT: DISPUTE RESOLUTION

Substitute the following for clause 18:

"CLAUSE 18: DISPUTE PROCEDURE

(1) Unless otherwise provided in the Council's Constitution or in this Collective Agreement, any dispute within the registered scope of the Council shall be resolved as set out below:

- (a) The General Secretary of the Council shall, after consultation with the Secretary of any relevant Regional Chamber, decide whether any dispute referred to the Council must be dealt with by the Council or the Regional Chamber.
- (b) The Council shall, from time to time, adopt by resolution, guidelines for the General Secretary of the Council to follow in the allocation of such disputes.
- (c) When any dispute is allocated to a Regional Chamber in terms of this clause, then such Regional Chamber shall have the same rights, powers and obligations as the Council.

(2) Accreditation

- (a) With a view to performing its dispute resolution functions in terms of section 51 (3) of the Act only, the Council shall by decision apply to the governing body of the CCMA for accreditation to perform these functions, as appropriate.
- (b) In the event that the Council fails to secure such accreditation, the Council may enter into an agreement with the CCMA in terms of which the CCMA is to perform, on behalf of the Council, its dispute resolution functions in terms of section 51 (3) of the Act.

(3) Panel of conciliators, arbitrators and senior arbitrators

- (a) The Council shall appoint—
 - (i) a panel of conciliators, for the purpose of conciliating disputes;
 - (ii) a panel of arbitrators, for the purpose of determining disputes;
 - (iii) a panel of senior arbitrators, for the purpose of determining disputes where—
 - (aa) the nature of the questions of law raised by the dispute;
 - (bb) the complexity of the dispute;
 - (cc) conflicting arbitration awards, Labour Court precedents or Labour Appeal Court precedents; and/or
 - (dd) the public interest

requires the appointment of a senior arbitrator and a party to the dispute requests that the Council refer the dispute for determination by a senior arbitrator.
- (b) The Council shall determine from time to time the number of persons to be appointed to the panels of conciliators and arbitrators.
- (c) All parties to the Council shall attempt to reach agreement on the persons to be appointed to the conciliation and arbitration panels. In the event that the parties to the Council cannot agree on the appointment of some or all of the conciliators and arbitrators, the following process shall be followed:
 - (i) The union parties to the Council shall prepare a list of nominees to fill the remaining vacancies on each panel, and the employer parties to the Council shall do likewise.

- (ii) The lists prepared by the parties shall be exchanged, and the union shall rank the nominees of the employer parties in order of their preference, and the employer parties shall do likewise in respect of the nominees of the union parties.
 - (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' lists shall 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 General Secretary of the Council shall draw the name of the remaining appointee.
- (d) The arbitrators and senior arbitrators are to be appointed to the relevant 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 arbitrators and senior arbitrators not be re-appointed, all parties to the Council shall attempt to reach agreement on the persons to be appointed to the panel or senior panel, failing which the remaining vacancies shall be filled in accordance with the method described in subclause (3) (c) above.
- (e) Notwithstanding subclause (3) (d) above, the Council may remove a member of the panel of conciliators or arbitrators from office—
- (i) for serious misconduct; or
 - (ii) owing to incapacity; or
 - (iii) if at least one half of the employer parties and at least one half of the union parties have voted in favour of the removal of that member from the panel.
- (f) If for any reason there is a vacancy on the panels, the Council may appoint a new member to the relevant panel in accordance with the method described in subclause (3) (c) above for the unexpired portion of the predecessor's term of office.
- (g) Subject to subclause (3) (i), a person may be appointed to one or more of the panel of conciliators or arbitrators or senior arbitrators.
- (h) An employee of the Council shall be eligible for appointment to the panel of conciliators and the panel of arbitrators: Provided that, should the Council have an interest in the dispute to be arbitrated, employees of the Council shall not be eligible to arbitrate the dispute.
- (i) An employee of the Council shall not be eligible for appointment to the panel of senior arbitrators.
- (j) Unless the parties to the dispute have agreed on a member of the relevant panel to conciliate or arbitrate their dispute or on a procedure to allocate disputes to the panel, the General Secretary of the Council or another designated official shall appoint a member of the relevant panel to conciliate or arbitrate the dispute on a rotational basis, with the next available conciliator, arbitrator or senior arbitrator being appointed, as the case may be, should any panel member(s) not be available in terms of such rotation.

(4) Disputes involving non-parties to the Council

Any dispute contemplated in section 51 (3) of the Act, where any party to the dispute is not a party or a member of a party to the Council shall be resolved by the Council in accordance with the following procedure:

(a) Referral and conciliation of disputes

- (i) Any of the parties to the dispute may refer the dispute in writing to the Council, setting out the nature of the dispute and the outcome sought.
- (ii) The party who refers the dispute to the Council shall satisfy the Council that a copy of the referral has been served on all other parties to the dispute.
- (iii) The General Secretary or other designated official shall appoint a member of the panel of conciliators who shall attempt to resolve the dispute through conciliation within thirty (30) days from the date of the Council's receiving the written referral of the dispute, or any extended period as agreed to in writing by the parties to the dispute.
- (iv) The conciliator may, during conciliation proceedings—
 - (aa) mediate the dispute;
 - (bb) conduct a fact-finding exercise; and
 - (cc) make a recommendation to the parties to the dispute, which may be in the form of a non-binding advisory arbitration award.
- (v) Representation of a party to the dispute in the conciliation proceedings shall be in accordance with the provisions of the Act in relation to conciliation proceedings at the CCMA.

- (vi) At the end of the thirty (30) day period, referred to in subclause (4) (a) (iii) above or any further period agreed to in writing by the parties to the dispute, the General Secretary or other designated official of the Council shall issue a certificate stating whether or not the dispute has been resolved.
 - (vii) Nothing in this Agreement shall prevent an officer or an employee of the Council from investigating the dispute or attempting to conciliate the dispute before the appointment of a conciliator.
- (b) *Adjudication of disputes referred to the Council for arbitration*
- (i) If the dispute remains unresolved after conciliation, any party to the dispute may request that the dispute be resolved through arbitration if—
 - (aa) the Act requires that the dispute be arbitrated; or
 - (bb) all the parties to the dispute consent to arbitration under the auspices of the Council, irrespective of whether such dispute may be subject to the jurisdiction of the CCMA or Labour Court in terms of the Act.
 - (ii) Upon receipt of such written request for arbitration from a party to the dispute, the General Secretary or other designated official of the Council shall appoint a member of the relevant panel of arbitrators to arbitrate the dispute.
 - (iii) Such written request for arbitration shall be made within the time period prescribed in the Act, provided that the arbitrator may permit a late request for arbitration on good cause shown.
 - (iv) The General Secretary or other designated official of the Council shall serve notice of the date, time and venue of the arbitration on the parties to the dispute.
 - (v) 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 the arbitrator to be frivolous or vexatious.
 - (vi) Any party who has a legal interest in the outcome of the arbitration and a party whose application in terms of subclause (4) (b) (v) above has been granted by the arbitrator, shall have the right to—
 - (aa) give evidence;
 - (bb) call witnesses;
 - (cc) question the witnesses of any other party;
 - (dd) address arguments to the arbitrator;
 - (ee) be represented in accordance with the provisions of sections 138 and 140 of the Act.
 - (vii) The arbitration proceedings shall be conducted in accordance with the provisions of the Code of Conduct for conciliators and arbitrators as agreed to by the Council, sections 138 and 142 and, if applicable, sections 139, 140 and 141 of the Act, read with the changes required by the context.
 - (viii) Representation at arbitration proceedings shall be in accordance with the provisions of the Act in relation to arbitration proceedings at the CCMA.
 - (ix) The arbitrator who has been appointed to resolve the dispute shall have the powers of a Commissioner in terms of sections 138 and 142 of the Act.
 - (x) Subject to the provisions of the Act, an award made by the arbitrator appointed to resolve the dispute shall be final and binding on the parties to the dispute. The arbitrator shall, however, have the power to vary, rescind or amend an award made by him/her on good cause shown or of his own accord; and, without limiting the generality thereof, 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;
 - (bb) the award is ambiguous or contains an obvious error or omission;
 - (cc) the award was granted as a result of a mistake common to the parties to the proceedings.
 - (xi) The Council shall serve the award, together with any written reasons, on all parties to the dispute.
 - (xii) Upon receipt of a written request from a party to the dispute, the General Secretary or other designated official of the Council shall apply to the director to certify that the arbitration award is an award contemplated in section 143 (1) of the Act.

(5) Disputes involving parties to the Council

- (a) 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.
- (b) If the dispute between the parties is one which arises from negotiations entered into for the purpose of concluding a collective agreement in the Council or in any Regional Chamber, the General Secretary or other designated official shall appoint a member of the panel of conciliators, who shall attempt to resolve the dispute through conciliation within thirty (30) days from the date when the dispute was minuted or referred to the Council, or within any extended period as agreed to in writing by the parties to the dispute. If the dispute remains unresolved, the parties may exercise their rights in terms of the Act.
- (c) Any other dispute between parties to the Council which the Act requires to be arbitrated or which disputes would otherwise be adjudicated by the Labour Court, but which the parties to the dispute have agreed to arbitrate, including a dispute about the interpretation or application of the provisions of this Agreement and/or any collective agreement between the parties to the dispute, shall be resolved by the Council in accordance with the procedure set out in subclause (4) above, subject to subclause (5) (d) below.
- (d) Upon receipt of a written request for arbitration of a dispute about the interpretation or application of the provisions of this Agreement and/or any collective agreement between the parties to the dispute, the General Secretary or other designated official of the Council shall appoint a member of the panel of senior arbitrators to arbitrate the dispute.

(6) Compliance procedure and enforcement of collective agreements by Council

- (a) The Council shall request the Minister to appoint certain identified persons to be the designated agents of the Council to promote, monitor and enforce compliance with this Collective Agreement concluded in the Council.
- (b) Such designated agents shall perform the functions and have the powers set out in the Act, including sections 33 and 33A and Schedule 10 of the Act. It is specifically recorded that such designated agent shall have the power to issue a compliance order.
- (c) The Council shall take all reasonable steps necessary to ensure compliance with this Agreement and with the collective agreements concluded in the Council. If, whether through its own investigations or through any other source, it appears that the provisions of such an agreement may have been breached, then the following procedures shall apply to enforce compliance:
 - (i) The General Secretary of the Council shall appoint a designated agent to investigate the alleged breach and may delegate such powers of appointment to the Secretary of a Regional Chamber.
 - (ii) If, upon completion of the investigation, the designated agent has reason to believe that an agreement has been breached, the agent may endeavour to secure compliance with the agreement, in terms of guidelines of, or decisions by, the Council, where these exist, by—
 - (aa) publicising the contents of the agreement;
 - (bb) conducting inspections;
 - (cc) investigating complaints;
 - (dd) endeavouring to secure compliance with the agreement through conciliation; or
 - (ee) issuing a compliance order requiring any person bound by the agreement to comply with the agreement within a specified period.
 - (iii) The designated agent shall report all disputes concerning compliance with any provision of a collective agreement to the General Secretary of the Council and a designated official of the Regional Chamber.
 - (iv) Upon receipt of the report of an unresolved dispute, the General Secretary or other designated official of the Council or Regional Chamber may refer the unresolved dispute to arbitration.
 - (v) The General Secretary or other designated official of the Council or Regional Chamber shall appoint a member of the relevant panel of arbitrators to arbitrate the dispute.
 - (vi) The General Secretary or other designated agent of the Council or Regional Chamber shall serve notice of the date, time and venue of the arbitration on the parties to the dispute.
 - (vii) If a party to such an arbitration is not a party to the Council and objects to the appointment of a member of the panel, the General Secretary or other designated official of the Council or Regional Chamber shall request the CCMA to appoint an arbitrator, in which event the objecting party shall pay the arbitrator's fee to the Council, and the Council shall pay the fee set by the CCMA.
 - (viii) The provisions of subclause (4) (b) (v) to (4) (b) (xii) above shall apply to an arbitration in terms of this clause.

- (ix) In addition, an arbitrator conducting an arbitration in terms of this clause may make any appropriate award including—
 - (aa) ordering any person to pay any amount owing in terms of a collective agreement;
 - (bb) imposing a fine for a failure to comply with a collective agreement in accordance with Item 29 of Schedule 7 and section 33A (13) of the Act;
 - (cc) charging a party to the arbitration an arbitration fee;
 - (dd) ordering a party to the arbitration to pay the costs of the arbitration;
 - (ee) confirming, varying or setting aside a compliance order issued by a designated agent;
 - (ff) any award contemplated in section 138 (9) of the Act;
 - (gg) any award in relation to the interest payable on any amount that a person is obliged to pay in terms of a collective agreement.
- (x) Subject to the provisions of the Act, an award in an arbitration conducted in terms of subclause (b) shall be final and binding on the parties to the dispute.
- (xi) The General Secretary or other designated official of the Council may apply to the director to certify that the arbitration award is an award contemplated in section 143 (1) of the Act.
- (xii) The provisions of this procedure shall stand in addition to any other legal remedy through which the Council may enforce a collective agreement.”.

Signed at Cape Town on behalf of the parties this 7th day of August 2003.

C. O. JEFTHA
Chairperson

M. W. SIDDONS
Vice-Chairperson

W. A. ROBERTS
Acting General Secretary

No. R. 1290

19 September 2003

LABOUR RELATIONS ACT, 1995

CANCELLATION OF GOVERNMENT NOTICES

NATIONAL BARGAINING COUNCIL FOR THE CLOTHING MANUFACTURING INDUSTRY: COLLECTIVE FUND AGREEMENT FOR THE NORTHERN REGION

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby, in terms of section 32 (7) of the Labour Relations Act, 1995, cancel Government Notices Nos. R. 247 of 21 February 2003, R. 785 and R. 786 of 20 June 2003, with effect from 22 September 2003.

N. M. S. MDLADLANA
Minister of Labour

No. R. 1290

19 September 2003

WET OP ARBEIDSVERHOUDINGE, 1995

INTREKKING VAN GOEWERMENSKENNISGEWINGS

NASIONALE BEDINGINGSRAAD VIR DIE KLERASIE VERVAARDIGINGSNYWERHEID: KOLLEKTIEWE FONDSOOREENKOMS VIR DIE NOORDELIKE STREEK

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, trek hierby, kragtens artikel 32 (7) van die Wet op Arbeidsverhoudinge, 1995, Goewermenskennisgewings Nos. R247 van 21 Februarie 2003, R. 785 en R. 786 van 20 Junie 2003 in met ingang van 22 September 2003.

N. M. S. MDLADLANA
Minister van Arbeid

No. R. 1291

19 September 2003

LABOUR RELATIONS ACT, 1995

NATIONAL BARGAINING COUNCIL FOR THE CLOTHING MANUFACTURING INDUSTRY: EXTENSION OF COLLECTIVE FUND RE-ENACTING AMENDING AGREEMENT FOR THE NORTHERN REGION 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 National Bargaining Council for the Clothing Manufacturing Industry, 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 22 September 2003, and for the period ending 30 June 2004.

M. M. S. MDLADLANA

Minister of Labour

No. R. 1291

19 September 2003

WET OP ARBEIDSVERHOUDINGE, 1995

NASIONALE BEDINGINGSRAAD VIR DIE KLERASIE VERVAARDIGINGSNYWERHEID: UITBREIDING VAN KOLLEKTIEWE HERBEKRAFTIGINGS- EN WYSIGINGS FONDSOOREENKOMS VIR DIE NOORDELIKE STREEK 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 Nasionale Bedingsraad vir die Klerasievervaardigingsnywerheid 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 22 September 2003, en vir die tydperk wat op 30 Junie 2004 eindig.

M. M. S. MDLADLANA

Minister van Arbeid

Nota: 'n Vertaling van die Afrikaanse Ooreenkoms is op aanvraag beskikbaar by die Bedingsraad.

SCHEDULE**NATIONAL BARGAINING COUNCIL FOR THE CLOTHING MANUFACTURING INDUSTRY****COLLECTIVE FUND AMENDING AGREEMENT FOR THE NORTHERN REGION**

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 National Bargaining Council for the Clothing Manufacturing Industry,

1. SCOPE OF APPLICATION

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

- (a) by all employers who are members of the employers' organisation and who 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; and
- (b) the provisions of clauses 3, 4 and 5 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, 3 and 8 (5) of this Collective Agreement shall not apply to employers and employees who are not members of the employers' organisation and trade union, respectively.

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 2004.

(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. SPECIAL PROVISIONS

The provisions contained in clauses 8 and 15B of the Agreement published under Government Notice No. R. 828 of 7 July 1999, as amended, extended, renewed and re-enacted by Government Notices Nos. R. 378 of 14 April 2000, R. 543 of 2 June 2000, R. 397 of 5 April 2002, R. 247 of 21 February 2003, R. 785 and R. 786 of 20 June 2003 (hereinafter referred to as the "Former Agreement"), as further amended, extended, renewed and re-enacted from time to time, shall apply to employers and employees who are members of the parties to the collective agreement.

4. GENERAL PROVISIONS

The provisions contained in clauses 3 to 7, 9 to 15A and 16 to 18 of the Former Agreement (as further as amended, extended, renewed and re-enacted from time to time), shall apply to employers and employees.

5. CLAUSE 3 OF THE FORMER AGREEMENT: DEFINITIONS

Substitute the following new definition for the definition of "Clothing Industry" or "Industry":

"**'Clothing Industry' or 'Industry'** means, without in any way limiting the ordinary meaning of the expression, the industry in which employers and their employees are associated for the making of all classes of the undermentioned items of apparel/clothing/garments:

Belts (manufactured from cloth), braces, brassieres, caps, collars, corsetry, cummerbunds, gloves, handkerchiefs, hats, hosiery (including ladies' stockings, pantihose and socks), knitted outerwear, knitted underwear; nightwear (including pyjamas), outerwear, protective wear (including overalls and wetsuits), scarves, shirts, suspenders, ties (including bowties) and underwear;

A. and includes—

- (a) all operations incidental thereto and consequent thereon and all succeeding processes or operations performed in connection therewith carried on by such employers and any of their employees, irrespective of the process or method used in such making and irrespective of whether such processes or operations are performed on the premises of such employers, or elsewhere;
- (b) all types of hand-sewing operations (including beading and embroidery), whether by hand and/or machine, on garments and/or parts of garments and irrespective of whether or not such operations are performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (c) any of the aforementioned items made for quantity production tailoring made to the order of any government department, provincial administration, S A Airways, Telkom, Transnet or local authority;
- (d) any part(s) of garments whether by means of a knitting process or otherwise;
- (e) design-room services, irrespective of whether or not such services are provided by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (f) fully-fashioned and/or semi-fashioned garments knitted on circular, flat or full-fashioned machinery;
- (g) screen process printing on garments and parts of garments performed in a clothing, textile and/or knitting establishment;
- (h) tailored outer garments for the execution of special measure orders from dealers whose customers' measurements are taken by or on the responsibility of such dealers;
- (i) the changing of labels, irrespective of whether or not such operation is performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (j) the making of buttonholes, irrespective of whether or not such operation is performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (k) the ironing of garments and/or parts of garments, irrespective of whether or not such ironing is done in the establishment in which such items were manufactured or in an establishment or by persons undertaking such work on newly manufactured garments on behalf of such employers and any of their employees;
- (l) the making up of garments from knitted fabric in the establishment in which the fabric was knitted;
- (m) the making up of sample garments and/or parts of garments, irrespective of whether or not such operation is performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;

- (n) the marking-in and/or cutting of garments or parts of garments, irrespective of whether or not such operation(s) is (are) performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees; and
- (o) the packing of garments and/or parts of garments, irrespective of whether or not such packing is done in the establishment in which such items were manufactured or in an establishment or by persons undertaking such work with newly manufactured garments on behalf of such employers and any of their employees;

B. but excludes—

- (a) belts, braces, garters, suspenders and armlets manufactured from leather;
- (b) boxing gloves;
- (c) retail dressmaking, i.e., the making of single garments to the measurement of individual persons;
- (d) retail millinery, i.e., the making of hats in shops for sale in such shops and the making of single hats to the measurement of individual persons;
- (e) tailor-made garments for individual persons, provided such garments are not manufactured in a factory;".

6. CLAUSE 4 OF THE FORMER AGREEMENT: COUNCIL FUND

- (1) In subclause (1) (a), substitute the expression "R1,00" for the expression "60 cents".
- (2) In subclause (1) (b), substitute the expression "R1,10" for the expression "70 cents".

7. CLAUSE 7 OF THE FORMER AGREEMENT: SICK PAY FUND

- (1) In subclause (2) (a), substitute the expression "an amount of R1,50" for the expression "an amount equal to 0,29% of the prescribed qualified machinist's wages".
- (2) In subclause (2) (b), substitute the expression "an amount of R1,70" for the expression "an amount equal to 0,33%".

9. CLAUSE 14 OF THE FORMER AGREEMENT: DISPUTE PROCEDURE

Substitute the following for clause 14:

"CLAUSE 14: DISPUTE PROCEDURE

- (1) Unless otherwise provided in the Council's Constitution or in this Collective Agreement, any dispute within the registered scope of the Council shall be resolved as set out below:
 - (a) The General Secretary of the Council shall, after consultation with the Secretary of any relevant Regional Chamber, decide whether any dispute referred to the Council must be dealt with by the Council or the Regional Chamber.
 - (b) The Council shall, from time to time, adopt by resolution, guidelines for the General Secretary of the Council to follow in the allocation of such disputes.
 - (c) When any dispute is allocated to a Regional Chamber in terms of this clause, then such Regional Chamber shall have the same rights, powers and obligations as the Council.
- (2) **Accreditation**
 - (a) With a view to performing its dispute resolution functions in terms of section 51 (3) of the Act only, the Council shall by decision apply to the governing body of the CCMA for accreditation to perform these functions, as appropriate.
 - (b) In the event that the Council fails to secure such accreditation, the Council may enter into an agreement with the CCMA in terms of which the CCMA is to perform, on behalf of the Council, its dispute resolution functions in terms of section 51 (3) of the Act.
- (3) **Panel of conciliators, arbitrators and senior arbitrators**
 - (a) The Council shall appoint—
 - (i) a panel of conciliators, for the purpose of conciliating disputes;
 - (ii) a panel of arbitrators, for the purpose of determining disputes;
 - (iii) a panel of senior arbitrators, for the purpose of determining disputes where—
 - (aa) the nature of the questions of law raised by the dispute;
 - (bb) the complexity of the dispute;
 - (cc) conflicting arbitration awards, Labour Court precedents or Labour Appeal Court precedents; and/or
 - (dd) the public interest

requires the appointment of a senior arbitrator and a party to the dispute requests that the Council refer the dispute for determination by a senior arbitrator.
 - (b) The Council shall determine from time to time the number of persons to be appointed to the panels of conciliators and arbitrators.

- (c) All parties to the Council shall attempt to reach agreement on the persons to be appointed to the conciliation and arbitration panels. In the event that the parties to the Council cannot agree on the appointment of some or all of the conciliators and arbitrators, the following process shall be followed:
- (i) The union parties to the Council shall prepare a list of nominees to fill the remaining vacancies on each panel, and the employer parties to the Council shall do likewise.
 - (ii) The lists prepared by the parties shall be exchanged, and the union parties shall rank the nominees of the employer parties in order of their preference, and the employer parties shall do likewise in respect of the nominees of the union parties.
 - (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' lists shall 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 General Secretary of the Council shall draw the name of the remaining appointee.
- (d) The arbitrators and senior arbitrators are to be appointed to the relevant 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 arbitrators and senior arbitrators not be re-appointed, all parties to the Council shall attempt to reach agreement on the persons to be appointed to the panel or senior panel, failing which the remaining vacancies shall be filled in accordance with the method described in subclause (3) (c) above.
- (e) Notwithstanding subclause (3) (d) above, the Council may remove a member of the panel of conciliators or arbitrators from office—
- (i) for serious misconduct; or
 - (ii) owing to incapacity; or
 - (iii) if at least one half of the employer parties and at least one half of the union parties have voted in favour of the removal of that member from the panel.
- (f) If for any reason there is a vacancy on the panels, the Council may appoint a new member to the relevant panel in accordance with the method described in subclause (3) (c) above for the unexpired portion of the predecessor's term of office.
- (g) Subject to subclause (3) (i), a person may be appointed to one or more of the panel of conciliators or arbitrators or senior arbitrators.
- (h) An employee of the Council shall be eligible for appointment to the panel of conciliators and the panel of arbitrators: Provided that, should the Council have an interest in the dispute to be arbitrated, employees of the Council shall not be eligible to arbitrate the dispute.
- (i) An employee of the Council shall not be eligible for appointment to the panel of senior arbitrators.
- (j) Unless the parties to the dispute have agreed on a member of the relevant panel to conciliate or arbitrate their dispute or on a procedure to allocate disputes to the panel, the General Secretary of the Council or another designated official shall appoint a member of the relevant panel to conciliate or arbitrate the dispute on a rotational basis, with the next available conciliator, arbitrator or senior arbitrator being appointed, as the case may be, should any panel member(s) not be available in terms of such rotation.

(4) Disputes involving non-parties to the Council

Any dispute contemplated in section 51 (3) of the Act, where any party to the dispute is not a party or a member of a party to the Council shall be resolved by the Council in accordance with the following procedure:

(a) Referral and conciliation of disputes

- (i) Any of the parties to the dispute may refer the dispute in writing to the Council, setting out the nature of the dispute and the outcome sought.
- (ii) The party who refers the dispute to the Council shall satisfy the Council that a copy of the referral has been served on all other parties to the dispute.
- (iii) The General Secretary or other designated official shall appoint a member of the panel of conciliators who shall attempt to resolve the dispute through conciliation within thirty (30) days from the date of the Council's receiving the written referral of the dispute, or any extended period as agreed to in writing by the parties to the dispute.

- (iv) The conciliator may, during conciliation proceedings—
 - (aa) mediate the dispute;
 - (bb) conduct a fact-finding exercise; and
 - (cc) make a recommendation to the parties to the dispute, which may be in the form of a non-binding advisory arbitration award.
 - (v) Representation of a party to the dispute in the conciliation proceedings shall be in accordance with the provisions of the Act in relation to conciliation proceedings at the CCMA.
 - (vi) At the end of the thirty (30) day period, referred to in subclause (4) (a) (iii) above or any further period agreed to in writing by the parties to the dispute, the General Secretary or other designated official of the Council shall issue a certificate stating whether or not the dispute has been resolved.
 - (vii) Nothing in this Agreement shall prevent an officer or an employee of the Council from investigating the dispute or attempting to conciliate the dispute before the appointment of a conciliator.
- (b) *Adjudication of disputes referred to the Council for arbitration*
- (i) If the dispute remains unresolved after conciliation, any party to the dispute may request that the dispute be resolved through arbitration if—
 - (aa) the Act requires that the dispute be arbitrated; or
 - (bb) all the parties to the dispute consent to arbitration under the auspices of the Council, irrespective of whether such dispute may be subject to the jurisdiction of the CCMA or Labour Court in terms of the Act.
 - (ii) Upon receipt of such written request for arbitration from a party to the dispute, the General Secretary or other designated official of the Council shall appoint a member of the relevant panel of arbitrators to arbitrate the dispute.
 - (iii) Such written request for arbitration shall be made within the time period prescribed in the Act, provided that the arbitrator may permit a late request for arbitration on good cause shown.
 - (iv) The General Secretary or other designated official of the Council shall serve notice of the date, time and venue of the arbitration on the parties to the dispute.
 - (v) 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 the arbitrator to be frivolous or vexatious.
 - (vi) Any party who has a legal interest in the outcome of the arbitration and a party whose application in terms of subclause (4) (b) (v) above has been granted by the arbitrator, shall have the right to—
 - (aa) give evidence;
 - (bb) call witnesses;
 - (cc) question the witnesses of any other party;
 - (dd) address arguments to the arbitrator;
 - (ee) be represented in accordance with the provisions of sections 138 and 140 of the Act.
 - (vii) The arbitration proceedings shall be conducted in accordance with the provisions of the Code of Conduct for conciliators and arbitrators as agreed to by the Council, sections 138 and 142 and, if applicable, sections 139, 140 and 141 of the Act, read with the changes required by the context.
 - (viii) Representation at arbitration proceedings shall be in accordance with the provisions of the Act in relation to arbitration proceedings at the CCMA.
 - (ix) The arbitrator who has been appointed to resolve the dispute shall have the powers of a Commissioner in terms of sections 138 and 142 of the Act.
 - (x) Subject to the provisions of the Act, an award made by the arbitrator appointed to resolve the dispute shall be final and binding on the parties to the dispute. The arbitrator shall, however, have the power to vary, rescind or amend an award made by him/her on good cause shown or of his own accord; and, without limiting the generality thereof, 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;
 - (bb) the award is ambiguous or contains an obvious error or omission;

- (cc) the award was granted as a result of a mistake common to the parties to the proceedings.
- (xi) The Council shall serve the award, together with any written reasons, on all parties to the dispute.
- (xii) Upon receipt of a written request from a party to the dispute, the General Secretary or other designated official of the Council shall apply to the director to certify that the arbitration award is an award contemplated in section 143 (1) of the Act.

(5) Disputes involving parties to the Council

- (a) 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.
- (b) If the dispute between the parties is one which arises from negotiations entered into for the purpose of concluding a collective agreement in the Council or in any Regional Chamber, the General Secretary or other designated official shall appoint a member of the panel of conciliators, who shall attempt to resolve the dispute through conciliation within thirty (30) days from the date when the dispute was minuted or referred to the Council, or within any extended period as agreed to in writing by the parties to the dispute. If the dispute remains unresolved, the parties may exercise their rights in terms of the Act.
- (c) Any other dispute between parties to the Council which the Act requires to be arbitrated or which disputes would otherwise be adjudicated by the Labour Court, but which the parties to the dispute have agreed to arbitrate, including a dispute about the interpretation or application of the provisions of this Agreement and/or any collective agreement between the parties to the dispute, shall be resolved by the Council in accordance with the procedure set out in subclause (4) above, subject to subclause (5) (d) below.
- (d) Upon receipt of a written request for arbitration of a dispute about the interpretation or application of the provisions of this Agreement and/or any collective agreement between the parties to the dispute, the General Secretary or other designated official of the Council shall appoint a member of the panel of senior arbitrators to arbitrate the dispute.

(6) Compliance procedure and enforcement of collective agreements by Council

- (a) The Council shall request the Minister to appoint certain identified persons to be the designated agents of the Council to promote, monitor and enforce compliance with this Collective Agreement concluded in the Council.
- (b) Such designated agents shall perform the functions and have the powers set out in the Act, including sections 33 and 33A and Schedule 10 of the Act. It is specifically recorded that such designated agent shall have the power to issue a compliance order.
- (c) The Council shall take all reasonable steps necessary to ensure compliance with this Agreement and with the collective agreements concluded in the Council. If, whether through its own investigations or through any other source, it appears that the provisions of such an agreement may have been breached, then the following procedures shall apply to enforce compliance:
 - (i) The General Secretary of the Council shall appoint a designated agent to investigate the alleged breach and may delegate such powers of appointment to the Secretary of a Regional Chamber.
 - (ii) If, upon completion of the investigation, the designated agent has reason to believe that an agreement has been breached, the agent may endeavour to secure compliance with the agreement, in terms of guidelines of, or decisions by, the Council, where these exist, by—
 - (aa) publicising the contents of the agreement;
 - (bb) conducting inspections;
 - (cc) investigating complaints;
 - (dd) endeavouring to secure compliance with the agreement through conciliation; or
 - (ee) issuing a compliance order requiring any person bound by the agreement to comply with the agreement within a specified period.
 - (iii) The designated agent shall report all disputes concerning compliance with any provision of a collective agreement to the General Secretary of the Council and a designated official of the Regional Chamber.
 - (iv) Upon receipt of the report of an unresolved dispute, the General Secretary or other designated official of the Council or Regional Chamber may refer the unresolved dispute to arbitration.
 - (v) The General Secretary or other designated official of the Council or Regional Chamber shall appoint a member of the relevant panel of arbitrators to arbitrate the dispute.
 - (vi) The General Secretary or other designated agent of the Council or Regional Chamber shall serve notice of the date, time and venue of the arbitration on the parties to the dispute.

- (vii) If a party to such an arbitration is not a party to the Council and objects to the appointment of a member of the panel, the General Secretary or other designated official of the Council or Regional Chamber shall request the CCMA to appoint an arbitrator, in which event the objecting party shall pay the arbitrator's fee to the Council, and the Council shall pay the fee set by the CCMA.
- (viii) The provisions of subclause (4) (b) (v) to (4) (b) (xii) above shall apply to an arbitration in terms of this clause.
- (ix) In addition, an arbitrator conducting an arbitration in terms of this clause may make any appropriate award including—
 - (aa) ordering any person to pay any amount owing in terms of a collective agreement;
 - (bb) imposing a fine for a failure to comply with a collective agreement in accordance with Item 29 of Schedule 7 and section 33A (13) of the Act;
 - (cc) charging a party to the arbitration an arbitration fee;
 - (dd) ordering a party to the arbitration to pay the costs of the arbitration;
 - (ee) confirming, varying or setting aside a compliance order issued by a designated agent;
 - (ff) any award contemplated in section 138 (9) of the Act;
 - (gg) any award in relation to the interest payable on any amount that a person is obliged to pay in terms of a collective agreement.
- (x) Subject to the provisions of the Act, an award in an arbitration conducted in terms of subclause (6) shall be final and binding on the parties to the dispute.
- (xi) The General Secretary or other designated official of the Council may apply to the director to certify that the arbitration award is an award contemplated in section 143 (1) of the Act.
- (xii) The provisions of this procedure shall stand in addition to any other legal remedy through which the Council may enforce a collective agreement."

Signed at Cape Town on behalf of the parties this 10th day of July 2003.

C. O. JEFTHA
Chairperson

M. W. SIDDONS
Vice-Chairperson

W. A. ROBERTS
Acting General Secretary

No. R. 1292

19 September 2003

LABOUR RELATIONS ACT, 1995

CANCELLATION OF GOVERNMENT NOTICES

**NATIONAL BARGAINING COUNCIL FOR THE CLOTHING MANUFACTURING INDUSTRY:
PROVIDENT FUND COLLECTIVE AGREEMENT FOR THE WESTERN CAPE REGION**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby, in terms of section 32 (7) of the Labour Relations Act, 1995, cancel Government Notices Nos. R. 231 of 28 February 2003 and R. 793 and R. 794 of 20 June 2003, with effect from 22 September 2003.

M. M. S. MDLADLANA
Minister of Labour

No. R. 1292

19 September 2003

WET OP ARBEIDSVIRHOUDINGE, 1995

INTREKKING VAN GOEWERMENSKENNISGEWINGS

**NASIONALE BEDINGINGSRAAD VIR DIE KLERASIEVERVAARDIGINGSNYWERHEID:
VOORSORGFONDS KOLLEKTIEWE OOREENKOMS VIR DIE WES-KAAP STREEK**

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, trek hierby, kragtens artikel 32 (7) van die Wet op Arbeidsverhoudinge, 1995, Goewermenskennisgewings Nos. R. 231 van 28 Februarie 2003 en R. 793 en R. 794 van 20 Junie 2003 in, met ingang van 22 September 2003.

M. M. S. MDLADLANA
Minister van Arbeid

No. R. 1293

19 September 2003

LABOUR RELATIONS ACT, 1995

NATIONAL BARGAINING COUNCIL FOR THE CLOTHING MANUFACTURING INDUSTRY: EXTENSION OF PROVIDENT FUND COLLECTIVE RE-ENACTING AND AMENDING AGREEMENT FOR THE WESTERN CAPE REGION 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 National Bargaining Council for the Clothing Manufacturing Industry 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 22 September 2003, and for the period ending 30 June 2004.

M. M. S. MDLADLANA
Minister of Labour

No. R. 1293

19 September 2003

WET OP ARBEIDSVERHOUDINGE, 1995

NASIONALE BEDINGINGSRAAD VIR DIE KLERASIEVERVAARDIGINGSNYWERHEID: UITBREIDING VAN VOORSORG-FONDS KOLLEKTIEWE HERBEKRAGTING EN WYSIGINGSOOREENKOMS VIR DIE WES-KAAP STREEK 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 Engelse Bylae hiervan verskyn en wat in die Nasionale Bedingingsraad vir die Klerasievervaardigingsnywerheid 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 22 September 2003, en vir die tydperk wat op 30 Junie 2004 eindig.

M. M. S. MDLADLANA
Minister van Arbeid

NB. 'n afskrif van die Ooreenkoms in Afrikaans is op aanvraag beskikbaar by die Raad.

SCHEDULE**NATIONAL BARGAINING COUNCIL FOR THE CLOTHING MANUFACTURING INDUSTRY****PROVIDENT FUND COLLECTIVE AGREEMENT FOR THE WESTERN CAPE REGION**

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

Cape Clothing 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 National Bargaining Council for the Clothing Manufacturing Industry.

1. SCOPE OF APPLICATION

- (1) The terms of this Agreement shall be observed in the Clothing Industry—
 - (a) by the employers and employees who are members of the employers' organisation and the trade union, respectively, and who are engaged and employed in the Industry;
 - (b) in the Magisterial Districts of—
 - (i) The Cape, Simonstown, Bellville, Goodwood, including those portions of the Magisterial Districts of Goodwood, Simonstown and Bellville from which the Magisterial District of Mitchells Plain was constituted on 2 March 1992, Somerset West, Strand, George and Worcester, on the operations set forth in paragraphs (a) and (b) of the definition of "Clothing Industry" in clause 3 of the Collective Agreement published under Government Notice No. R. 629 of 28 May 1999;
 - (ii) Malmesbury, including that portion from which the Magisterial District of Moorreesburg was constituted on 29 November 1985 by Government Notice No. 2649, in respect of that part of the Industry in which employers and their employees are associated for the making of all classes of women's and girls' wear, including parts of such garments and cloth belts;

- (iii) Wynberg, including that portion of the Magisterial District of Wynberg included when the Magisterial District of Mitchells Plain was constituted on 2 March 1992, on the operations set forth in paragraphs (a), (b) and (c) of the definition of "Clothing Industry" in clause 3 of the Collective Agreement published under Government Notice No. R. 629 of 28 May 1999.

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

- (a) apply in respect of employees for whom wages are prescribed in the Main Collective Agreement, the Knitting Division Collective Agreement and the Country Areas Collective Agreement for the Western Cape Region of the Council;
- (b) not apply to employees and working directors whose wages are more than the amount referred to in clause 1 (2) (b) of the Main Collective Agreement of the Regional Council.

(3) Notwithstanding the provisions of subclauses (1) and (2), the terms of this Agreement shall apply in respect of employees and working directors who were contributors as at the date of coming into operation of the Agreement published under Government Notice No. R. 231 of 28 February 2003.

(4) Clauses 1 (1) (a), 2, 3 and 7 (5) of this Agreement shall not apply to employers who are not members of the employers' organisation and trade union, respectively.

2. PERIOD OF OPERATION OF AGREEMENT

This Agreement shall come into operation on such date as may be fixed by the Minister of Labour, in terms of section 32 (2) of the Act, and shall remain in force until 30 June 2004.

3. SPECIAL PROVISIONS

The provisions of clauses 16B of the Agreement published under Government Notice No. R. 231 of 28 February 2003 as extended and amended by Government Notices Nos. R. 793 and R. 794 of 20 June 2003 (hereinafter referred to as the "Former Agreement"), as further extended, amended and re-enacted from time to time, shall apply to employers and employees.

4. GENERAL PROVISIONS

The provisions contained in clauses 3 to 16A and 17 to 20 of the Former Agreement (as further extended, amended and renewed from time to time), shall apply to employers and employees.

5. CLAUSE 3 OF THE FORMER AGREEMENT: DEFINITIONS

Substitute the following new definition for the definition of "Clothing Industry" or "Industry":

"**'Clothing Industry' or 'Industry'** means, without in any way limiting the ordinary meaning of the expression, the industry in which employers and their employees are associated for the making of all classes of the undermentioned items of apparel/clothing/garments:

Belts (manufactured from cloth), braces, brassieres, caps, collars, corsetry, cummerbunds, gloves, handkerchiefs, hats, hosiery (including ladies' stockings, pantihose and socks), knitted outerwear, knitted underwear; nightwear (including pyjamas), outerwear, protective wear (including overalls and wetsuits), scarves, shirts, suspenders, ties (including bowties), and underwear;

A. and includes—

- (a) all operations incidental thereto and consequent thereon and all succeeding processes or operations performed in connection therewith carried on by such employers and any of their employees, irrespective of the process or method used in such making and irrespective of whether such processes or operations are performed on the premises of such employers, or elsewhere;
- (b) all types of hand-sewing operations (including beading and embroidery), whether by hand and/or machine, on garments and/or parts of garments and irrespective of whether or not such operations are performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (c) any of the aforementioned items made for quantity production tailoring made to the order of any government department, provincial administration, S A Airways, Telkom, Transnet or local authority;
- (d) any part(s) of garments whether by means of a knitting process or otherwise;
- (e) design-room services, irrespective of whether or not such services are provided by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (f) fully-fashioned and/or semi-fashioned garments knitted on circular, flat or full-fashioned machinery;
- (g) screen process printing on garments and parts of garments performed in a clothing, textile and/or knitting establishment;
- (h) tailored outer garments for the execution of special measure orders from dealers whose customers' measurements are taken by or on the responsibility of such dealers;

- (i) the changing of labels, irrespective of whether or not such operation is performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (j) the making of buttonholes, irrespective of whether or not such operation is performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (k) the ironing of garments and/or parts of garments, irrespective of whether or not such ironing is done in the establishment in which such items were manufactured or in an establishment or by persons undertaking such work on newly manufactured garments on behalf of such employers and any of their employees;
- (l) the making up of garments from knitted fabric in the establishment in which the fabric was knitted;
- (m) the making up of sample garments and/or parts of garments, irrespective of whether or not such operation is performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (n) the marking-in and/or cutting of garments or parts of garments, irrespective of whether or not such operation(s) is (are) performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees; and
- (o) the packing of garments and/or parts of garments, irrespective of whether or not such packing is done in the establishment in which such items were manufactured or in an establishment or by persons undertaking such work with newly manufactured garments on behalf of such employers and any of their employees;

B. but excludes—

- (a) belts, braces, garters, suspenders and armlets manufactured from leather;
 - (b) boxing gloves;
 - (c) retail dressmaking, i.e., the making of single garments to the measurement of individual persons;
 - (d) retail millinery, i.e., the making of hats in shops for sale in such shops and the making of single hats to the measurement of individual persons;
 - (e) tailor-made garments for individual persons, provided such garments are not manufactured in a factory;".
- (2) Delete the definitions of "Clothing Section" and "Knitting Section".

6. CLAUSE 18 OF THE FORMER AGREEMENT: DISPUTE PROCEDURE

Substitute the following for clause 18:

"CLAUSE 18: DISPUTE PROCEDURE

- (1) Unless otherwise provided in the Council's Constitution or in this Collective Agreement, any dispute within the registered scope of the Council shall be resolved as set out below:
 - (a) The General Secretary of the Council shall, after consultation with the Secretary of any relevant Regional Chamber, decide whether any dispute referred to the Council must be dealt with by the Council or the Regional Chamber.
 - (b) The Council shall, from time to time, adopt by resolution, guidelines for the General Secretary of the Council to follow in the allocation of such disputes.
 - (c) When any dispute is allocated to a Regional Chamber in terms of this clause, then such Regional Chamber shall have the same rights, powers and obligations as the Council.
- (2) **Accreditation**
 - (a) With a view to performing its dispute resolution functions in terms of section 51 (3) of the Act only, the Council shall by decision apply to the governing body of the CCMA for accreditation to perform these functions, as appropriate.
 - (b) In the event that the Council fails to secure such accreditation, the Council may enter into an agreement with the CCMA in terms of which the CCMA is to perform, on behalf of the Council, its dispute resolution functions in terms of section 51 (3) of the Act.
- (3) **Panel of conciliators, arbitrators and senior arbitrators**
 - (a) The Council shall appoint—
 - (i) a panel of conciliators, for the purpose of conciliating disputes;
 - (ii) a panel of arbitrators, for the purpose of determining disputes;
 - (iii) a panel of senior arbitrators, for the purpose of determining disputes where—
 - (aa) the nature of the questions of law raised by the dispute;
 - (bb) the complexity of the dispute;

- (cc) conflicting arbitration awards, Labour Court precedents or Labour Appeal Court precedents; and/or
 - (dd) the public interest
- requires the appointment of a senior arbitrator and a party to the dispute requests that the Council refer the dispute for determination by a senior arbitrator.
- (b) The Council shall determine from time to time the number of persons to be appointed to the panels of conciliators and arbitrators.
 - (c) All parties to the Council shall attempt to reach agreement on the persons to be appointed to the conciliation and arbitration panels. In the event that the parties to the Council cannot agree on the appointment of some or all of the conciliators and arbitrators, the following process shall be followed:
 - (i) The union parties to the Council shall prepare a list of nominees to fill the remaining vacancies on each panel, and the employer parties to the Council shall do likewise.
 - (ii) The lists prepared by the parties shall be exchanged, and the union parties shall rank the nominees of the employer parties in order of their preference, and the employer parties shall do likewise in respect of the nominees of the union parties.
 - (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' lists shall 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 General Secretary of the Council shall draw the name of the remaining appointee.
 - (d) The arbitrators and senior arbitrators are to be appointed to the relevant 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 arbitrators and senior arbitrators not be re-appointed, all parties to the Council shall attempt to reach agreement on the persons to be appointed to the panel or senior panel, failing which the remaining vacancies shall be filled in accordance with the method described in subclause (3) (c) above.
 - (e) Notwithstanding subclause (3) (d) above, the Council may remove a member of the panel of conciliators or arbitrators from office—
 - (i) for serious misconduct; or
 - (ii) owing to incapacity; or
 - (iii) if at least one half of the employer parties and at least one half of the union parties have voted in favour of the removal of that member from the panel.
 - (f) If for any reason there is a vacancy on the panels, the Council may appoint a new member to the relevant panel in accordance with the method described in subclause (3) (c) above for the unexpired portion of the predecessor's term of office.
 - (g) Subject to subclause (3) (i), a person may be appointed to one or more of the panel of conciliators or arbitrators or senior arbitrators.
 - (h) An employee of the Council shall be eligible for appointment to the panel of conciliators and the panel of arbitrators: Provided that, should the Council have an interest in the dispute to be arbitrated, employees of the Council shall not be eligible to arbitrate the dispute.
 - (i) An employee of the Council shall not be eligible for appointment to the panel of senior arbitrators.
 - (j) Unless the parties to the dispute have agreed on a member of the relevant panel to conciliate or arbitrate their dispute or on a procedure to allocate disputes to the panel, the General Secretary of the Council or another designated official shall appoint a member of the relevant panel to conciliate or arbitrate the dispute on a rotational basis, with the next available conciliator, arbitrator or senior arbitrator being appointed, as the case may be, should any panel member(s) not be available in terms of such rotation.

(4) Disputes involving non-parties to the Council

Any dispute contemplated in section 51 (3) of the Act, where any party to the dispute is not a party or a member of a party to the Council shall be resolved by the Council in accordance with the following procedure:

(a) Referral and conciliation of disputes

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

- (ii) The party who refers the dispute to the Council shall satisfy the Council that a copy of the referral has been served on all other parties to the dispute.
 - (iii) The General Secretary or other designated official shall appoint a member of the panel of conciliators who shall attempt to resolve the dispute through conciliation within thirty (30) days from the date of the Council's receiving the written referral of the dispute, or any extended period as agreed to in writing by the parties to the dispute.
 - (iv) The conciliator may, during conciliation proceedings—
 - (aa) mediate the dispute;
 - (bb) conduct a fact-finding exercise; and
 - (cc) make a recommendation to the parties to the dispute, which may be in the form of a non-binding advisory arbitration award.
 - (v) Representation of a party to the dispute in the conciliation proceedings shall be in accordance with the provisions of the Act in relation to conciliation proceedings at the CCMA.
 - (vi) At the end of the thirty (30) day period, referred to in subclause (4) (a) (iii) above or any further period agreed to in writing by the parties to the dispute, the General Secretary or other designated official of the Council shall issue a certificate stating whether or not the dispute has been resolved.
 - (vii) Nothing in this Agreement shall prevent an officer or an employee of the Council from investigating the dispute or attempting to conciliate the dispute before the appointment of a conciliator.
- (b) *Adjudication of disputes referred to the Council for arbitration*
- (i) If the dispute remains unresolved after conciliation, any party to the dispute may request that the dispute be resolved through arbitration if—
 - (aa) the Act requires that the dispute be arbitrated; or
 - (bb) all the parties to the dispute consent to arbitration under the auspices of the Council, irrespective of whether such dispute may be subject to the jurisdiction of the CCMA or Labour Court in terms of the Act.
 - (ii) Upon receipt of such written request for arbitration from a party to the dispute, the General Secretary or other designated official of the Council shall appoint a member of the relevant panel of arbitrators to arbitrate the dispute.
 - (iii) Such written request for arbitration shall be made within the time period prescribed in the Act, provided that the arbitrator may permit a late request for arbitration on good cause shown.
 - (iv) The General Secretary or other designated official of the Council shall serve notice of the date, time and venue of the arbitration on the parties to the dispute.
 - (v) 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 the arbitrator to be frivolous or vexatious.
 - (vi) Any party who has a legal interest in the outcome of the arbitration and a party whose application in terms of subclause (4) (b) (v) above has been granted by the arbitrator, shall have the right to—
 - (aa) give evidence;
 - (bb) call witnesses;
 - (cc) question the witnesses of any other party;
 - (dd) address arguments to the arbitrator;
 - (ee) be represented in accordance with the provisions of sections 138 and 140 of the Act.
 - (vii) The arbitration proceedings shall be conducted in accordance with the provisions of the Code of Conduct for conciliators and arbitrators as agreed to by the Council, sections 138 and 142 and, if applicable, sections 139, 140 and 141 of the Act, read with the changes required by the context.
 - (viii) Representation at arbitration proceedings shall be in accordance with the provisions of the Act in relation to arbitration proceedings at the CCMA.
 - (ix) The arbitrator who has been appointed to resolve the dispute shall have the powers of a Commissioner in terms of sections 138 and 142 of the Act.
 - (x) Subject to the provisions of the Act, an award made by the arbitrator appointed to resolve the dispute shall be final and binding on the parties to the dispute. The arbitrator shall, however, have the power to vary, rescind or amend an award made by him/her on good cause shown or of his own accord; and without limiting the generality thereof, 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;
- (bb) the award is ambiguous or contains an obvious error or omission;
- (cc) the award was granted as a result of a mistake common to the parties to the proceedings.
- (xi) The Council shall serve the award, together with any written reasons, on all parties to the dispute.
- (xii) Upon receipt of a written request from a party to the dispute, the General Secretary or other designated official of the Council shall apply to the director to certify that the arbitration award is an award contemplated in section 143 (1) of the Act.

(5) Disputes involving parties to the Council

- (a) 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.
- (b) If the dispute between the parties is one which arises from negotiations entered into for the purpose of concluding a collective agreement in the Council or in any Regional Chamber, the General Secretary or other designated official shall appoint a member of the panel of conciliators, who shall attempt to resolve the dispute through conciliation within thirty (30) days from the date when the dispute was minuted or referred to the Council, or within any extended period as agreed to in writing by the parties to the dispute. If the dispute remains unresolved, the parties may exercise their rights in terms of the Act.
- (c) Any other dispute between parties to the Council, which the Act requires to be arbitrated or which disputes would otherwise be adjudicated by the Labour Court, but which the parties to the dispute have agreed to arbitrate, including a dispute about the interpretation or application of the provisions of this Agreement and/or any collective agreement between the parties to the dispute, shall be resolved by the Council in accordance with the procedure set out in subclause (4) above, subject to the proviso in subclause (5) (d) below.
- (d) Upon receipt of a written request for arbitration of a dispute about the interpretation or application of the provisions of this Agreement and/or any collective agreement between the parties to the dispute, the General Secretary or other designated official of the Council shall appoint a member of the panel of senior arbitrators to arbitrate the dispute.

(6) Compliance procedure and enforcement of collective agreements by Council

- (a) The Council shall request the Minister to appoint certain identified persons to be the designated agents of the Council to promote, monitor and enforce compliance with this Collective Agreement concluded in the Council.
- (b) Such designated agents shall perform the functions and have the powers set out in the Act, including sections 33 and 33A and Schedule 10 of the Act. It is specifically recorded that such designated agent shall have the power to issue a compliance order.
- (c) The Council shall take all reasonable steps necessary to ensure compliance with this Agreement and with the collective agreements concluded in the Council. If, whether through its own investigations or through any other source, it appears that the provisions of such an agreement may have been breached, then the following procedures shall apply to enforce compliance:
 - (i) The General Secretary of the Council shall appoint a designated agent to investigate the alleged breach and may delegate such powers of appointment to the Secretary of a Regional Chamber.
 - (ii) If, upon completion of the investigation, the designated agent has reason to believe that an agreement has been breached, the agent may endeavour to secure compliance with the agreement, in terms of guidelines of, or decisions by, the Council, where these exist, by—
 - (aa) publicising the contents of the agreement;
 - (bb) conducting inspections;
 - (cc) investigating complaints;
 - (dd) endeavouring to secure compliance with the agreement through conciliation; or
 - (ee) issuing a compliance order requiring any person bound by the agreement to comply with the agreement within a specified period.
 - (iii) The designated agent shall report all disputes concerning compliance with any provision of a collective agreement to the General Secretary of the Council and a designated official of the Regional Chamber.
 - (iv) Upon receipt of the report of an unresolved dispute, the General Secretary or other designated official of the Council or Regional Chamber may refer the unresolved dispute to arbitration.

- (v) The General Secretary or other designated official of the Council or Regional Chamber shall appoint a member of the relevant panel of arbitrators to arbitrate the dispute.
- (vi) The General Secretary or other designated agent of the Council or Regional Chamber shall serve notice of the date, time and venue of the arbitration on the parties to the dispute.
- (vii) If a party to such an arbitration is not a party to the Council and objects to the appointment of a member of the panel, the General Secretary or other designated official of the Council or Regional Chamber shall request the CCMA to appoint an arbitrator, in which event the objecting party shall pay the arbitrator's fee to the Council, and the Council shall pay the fee set by the CCMA.
- (viii) The provisions of subclause (4) (b) (v) to (4) (b) (xii) above shall apply to an arbitration in terms of this clause.
- (ix) In addition, an arbitrator conducting an arbitration in terms of this clause may make any appropriate award including—
 - (aa) ordering any person to pay any amount owing in terms of a collective agreement;
 - (bb) imposing a fine for a failure to comply with a collective agreement in accordance with Item 29 of Schedule 7 and section 33A (13) of the Act;
 - (cc) charging a party to the arbitration an arbitration fee;
 - (dd) ordering a party to the arbitration to pay the costs of the arbitration;
 - (ee) confirming, varying or setting aside a compliance order issued by a designated agent;
 - (ff) any award contemplated in section 138 (9) of the Act;
 - (gg) any award in relation to the interest payable on any amount that a person is obliged to pay in terms of a collective agreement.
- (x) Subject to the provisions of the Act, an award in an arbitration conducted in terms of this subclause shall be final and binding on the parties to the dispute.
- (xi) The General Secretary or other designated official of the Council may apply to the director to certify that the arbitration award is an award contemplated in section 143 (1) of the Act.
- (xii) The provisions of this procedure shall stand in addition to any other legal remedy through which the Council may enforce a collective agreement."

Signed at Cape Town on behalf of the parties this 10th day of July 2003.

C. O. JEFTHA
Chairperson

M. W. SIDDONS
Vice-Chairperson

W. A. ROBERTS
Acting General Secretary

No. R. 1294

19 September 2003

LABOUR RELATIONS ACT, 1995

CANCELLATION OF GOVERNMENT NOTICES

**NATIONAL BARGAINING COUNCIL FOR THE CLOTHING MANUFACTURING INDUSTRY:
PROVIDENT FUND COLLECTIVE AGREEMENT FOR THE EASTERN CAPE REGION**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby, in terms of section 32 (7) of the Labour Relations Act, 1995, cancel Government Notices Nos. R. 249 of 21 February 2003 and R. 790 of 20 June 2003, with effect from 22 September 2003.

M. M. S. MDLADLANA
Minister of Labour

No. R. 1294

19 September 2003

WET OP ARBEIDSVERHOUDINGE, 1995

INTREKKING VAN GOEWERMENSKENNISGEWINGS

**NASIONALE BEDINGINGSRAAD VIR DIE KLERASIEVERVAARDIGINGSNYWERHEID:
VOORSORGFONDS KOLLEKTIEWE OOREENKOMS VIR DIE OOS-KAAP STREEK**

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, trek hierby, kragtens artikel 32 (7) van die Wet op Arbeidsverhoudinge, 1995, Goewermenskenninggewings Nos. R. 249 van 21 Februarie 2003 en R. 790 van 20 Junie 2003 in, met ingang van 22 September 2003.

M. M. S. MDLADLANA
Minister van Arbeid

No. R. 1295

19 September 2003

LABOUR RELATIONS ACT, 1995

NATIONAL BARGAINING COUNCIL FOR THE CLOTHING MANUFACTURING INDUSTRY: EXTENSION OF PROVIDENT FUND COLLECTIVE RE-ENACTING AND AMENDING AGREEMENT FOR THE EASTERN CAPE REGION 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 National Bargaining Council for the Clothing Manufacturing Industry 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 22 September 2003, and for the period ending 30 June 2005.

M. M. S. MDLADLANA
Minister of Labour

No. R. 1295

19 September 2003

WET OP ARBEIDSVERHOUDINGE, 1995

NASIONALE BEDINGINGSRAAD VIR DIE KLERASIEVERVAARDIGINGSNYWERHEID: UITBREIDING VAN VOORSORGFONDS KOLLEKTIEWE HERBEKRAFTIGING EN WYSIGINGSOOREENKOMS VIR DIE OOS-KAAP STREEK 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 Engelse Bylae hiervan verskyn en wat in die Nasionale Bedingingsraad vir die Klerasievervaardigingsnywerheid 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 22 September 2003, en vir die tydperk wat op 30 Junie 2005 eindig.

M. M. S. MDLADLANA
Minister van Arbeid

NB: 'n Afskrif van die Ooreenkoms in Afrikaans is op aanvraag beskikbaar by die Raad.

SCHEDULE

**NATIONAL BARGAINING COUNCIL FOR THE CLOTHING MANUFACTURING INDUSTRY
PROVIDENT FUND COLLECTIVE AMENDING AGREEMENT FOR THE EASTERN CAPE REGION**

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

Eastern Province 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 National Bargaining Council for the Clothing Manufacturing Industry.

1. SCOPE OF APPLICATION OF AGREEMENT

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

(a) by the employers who are members of the employers' organisation and by all employees who are members of the trade union;

(b) in the Magisterial Districts of—

- (i) Port Elizabeth, including that portion of Hankey which, prior to the publication of Government Notice No. 1515 of 4 October 1963, fell within the Magisterial District of Port Elizabeth, including that portion which was transferred by the publication of Government Notice No. 1687 of 5 September 1975 to Uitenhage and excluding that portion of Hankey which was transferred by Government Notice No. 1974 of 26 September 1980 to Port Elizabeth; and
- (ii) East London, including that portion which was transferred to Mdantsane by Government Notice No. 1481 of 27 August 1971, excluding those portions of the Ciskei which were transferred to East London by Government Notice No. 1877 of 4 September 1981 and Government Notice No. 1079 of 10 June 1988 and including that portion which was transferred to Ciskei by Government Notice No. 2354 of 5 October 1990.

(2) Clauses 1 (1) (a), 2 (1) and 3 of this Agreement shall not apply to employers and employees who are not members of the employers' organisation and trade union, respectively.

2. PERIOD OF OPERATION OF AGREEMENT

This Agreement shall come into operation—

- (1) in respect of the parties to this Agreement, on the date of signature;
- (2) in respect of non-parties; on the date fixed by the Minister of Labour to be the effective date from which the Agreement shall be extended to become binding on non-parties;

and shall remain in operation for the period ending 30 June 2005.

3. SPECIAL PROVISIONS

The provisions of clause 8 of the Agreement published under Government Notice No. R. 1444 of 10 December 1999 as amended, extended and re-enacted by Government Notice No. R. 666 of 30 June 2000, No. R. 249 of 21 February 2003, No. R. 790 of 20 June 2003 (hereinafter referred to as the "Former Agreement"), as further amended, extended and re-enacted from time to time, shall apply to employers and employees.

4. GENERAL PROVISIONS

The provisions contained in clauses 3 to 7 of the Former Agreement (as further amended, extended and re-enacted from time to time), shall apply to employers and employees.

3. CLAUSE 3 OF THE FORMER AGREEMENT: DEFINITIONS

Substitute the following new definition for the definition of "Clothing Industry" or "Industry":

"**'Clothing Industry' or 'Industry'** means, without in any way limiting the ordinary meaning of the expression, the industry in which employers and their employees are associated for the making of all classes of the undermentioned items of apparel/clothing/garments:

Belts (manufactured from cloth), braces, brassieres, caps, collars, corsetry, cummerbunds, gloves, handkerchiefs, hats, hosiery (including ladies' stockings, pantihose and socks), knitted outerwear, knitted underwear; nightwear (including pyjamas), outerwear, protective wear (including overalls and wetsuits), scarves, shirts, suspenders, ties (including bowties), and underwear;

A. and includes—

- (a) all operations incidental thereto and consequent thereon and all succeeding processes or operations performed in connection therewith carried on by such employers and any of their employees, irrespective of the process or method used in such making and irrespective of whether such processes or operations are performed on the premises of such employers, or elsewhere;
- (b) all types of hand-sewing operations (including beading and embroidery), whether by hand and/or machine, on garments and/or parts of garments and irrespective of whether or not such operations are performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (c) any of the aforementioned items made for quantity production tailoring made to the order of any government department, provincial administration, S A Airways, Telkom, Transnet or local authority;
- (d) any part(s) of garments whether by means of a knitting process or otherwise;
- (e) design-room services, irrespective of whether or not such services are provided by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (f) fully-fashioned and/or semi-fashioned garments knitted on circular, flat or full-fashioned machinery;
- (g) screen process printing on garments and parts of garments performed in a clothing, textile and/or knitting establishment;
- (h) tailored outer garments for the execution of special measure orders from dealers whose customers' measurements are taken by or on the responsibility of such dealers;

- (i) the changing of labels, irrespective of whether or not such operation is performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (j) the making of buttonholes, irrespective of whether or not such operation is performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (k) the ironing of garments and/or parts of garments, irrespective of whether or not such ironing is done in the establishment in which such items were manufactured or in an establishment or by persons undertaking such work on newly manufactured garments on behalf of such employers and any of their employees;
- (l) the making up of garments from knitted fabric in the establishment in which the fabric was knitted;
- (m) the making up of sample garments and/or parts of garments, irrespective of whether or not such operation is performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (n) the marking-in and/or cutting of garments or parts of garments, irrespective of whether or not such operation(s) is (are) performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees; and
- (o) the packing of garments and/or parts of garments, irrespective of whether or not such packing is done in the establishment in which such items were manufactured or in an establishment or by persons undertaking such work with newly manufactured garments on behalf of such employers and any of their employees;

B. but excludes—

- (a) belts, braces, garters, suspenders and armlets manufactured from leather;
- (b) boxing gloves;
- (c) retail dressmaking, i.e., the making of single garments to the measurement of individual persons;
- (d) retail millinery, i.e., the making of hats in shops for sale in such shops and the making of single hats to the measurement of individual persons;
- (e) tailor-made garments for individual persons, provided such garments are not manufactured in a factory;".

4. CLAUSE 4 OF THE FORMER AGREEMENT: PROVIDENT FUND

- (1) In subclause (5) (b) (i), for the expression "4,79% per week", substitute the expression "6,79% per week".
- (2) In subclause (5) (b) (ii), for the expression "4,99% per week", substitute the expression "6,99% per week".

Signed at Cape Town on behalf of the parties this 10th day of July 2003.

C. O. JEFTHA
Chairperson

M. W. SIDDONS
Vice-Chairperson

W. A. ROBERTS
Acting General Secretary

No. R. 1296

19 September 2003

LABOUR RELATIONS ACT, 1995

CANCELLATION OF GOVERNMENT NOTICES

**NATIONAL BARGAINING COUNCIL FOR THE CLOTHING MANUFACTURING INDUSTRY:
KNITTING DIVISION COLLECTIVE AGREEMENT FOR THE WESTERN CAPE REGION**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby, in terms of section 32 (7) of the Labour Relations Act, 1995, cancel Government Notices Nos. R. 323 of 7 March 2003 and R. 797 and R. 798 of 20 June 2003, with effect from 22 September 2003.

M. M. S. MDLADLANA
Minister of Labour

No. R. 1296

19 September 2003

WET OP ARBEIDSVERHOUDINGE, 1995

INTREKKING VAN GOEWERMENSKENNISGEWINGS

**NASIONALE BEDINGINGSRAAD VIR DIE KLERASIEVERVAARDIGINGSNYWERHEID:
KOLLEKTIEWE OOREENKOMS VIR DIE BREI-AFDELING VAN DIE WESKAAP STREEK**

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, trek hierby, kragtens artikel 32 (7) van die Wet op Arbeidsverhoudinge, 1995, Goewermenskenningewings Nos. R. 323 van 7 Maart 2003 en R. 797 en R. 798 van 20 Junie 2003 in, met ingang van 22 September 2003.

M. M. S. MDLADLANA
Minister van Arbeid

No. R. 1297

19 September 2003

LABOUR RELATIONS ACT, 1995

NATIONAL BARGAINING COUNCIL FOR THE CLOTHING MANUFACTURING INDUSTRY: EXTENSION OF KNITTING DIVISION COLLECTIVE RE-ENACTING AND AMENDING AGREEMENT FOR THE WESTERN CAPE REGION 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 National Bargaining Council for the Clothing Manufacturing Industry 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 22 September 2003, and for the period ending 30 June 2004.

M. M. S. MDLADLANA
Minister of Labour

No. R. 1297

19 September 2003

WET OP ARBEIDSVERHOUDINGE, 1995

NASIONALE BEDINGINGSRAAD VIR DIE KLERASIEVERVAARDIGINGSNYWERHEID: UITBREIDING VAN BREI-AFDELING KOLLEKTIEWE HERBEKRAGTIGING EN WYSIGINGSOOREENKOMS VIR DIE WES-KAAP STREEK 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 Engelse Bylae hiervan verskyn en wat in die Nasionale Bedingingsraad vir die Klerasievervaardigingsnywerheid 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 22 September 2003, en vir die tydperk wat op 30 Junie 2004 eindig.

M. M. S. MDLADLANA
Minister van Arbeid

SCHEDULE

**NATIONAL BARGAINING COUNCIL FOR THE CLOTHING MANUFACTURING INDUSTRY
KNITTING DIVISION COLLECTIVE AGREEMENT FOR THE WESTERN CAPE REGION**

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

Cape Clothing 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 National Bargaining Council for the Clothing Manufacturing Industry.

1. SCOPE OF APPLICATION

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

- (a) by the employers and the employees who are members of the employers' organisation and the trade union, respectively;

- (b) in the Magisterial Districts of The Cape, Wynberg, Simonstown, Goodwood and Bellville, including those portions of the Magisterial Districts of Wynberg, Simonstown, Goodwood and Bellville that were used to create the Magisterial Districts of Mitchells Plain on 2 March 1992, Somerset West, Strand, Malmesbury and George.
- (2) Notwithstanding the provisions of subclause (1), the terms of this Agreement shall—
 - (a) apply only in respect of employees for whom wages are prescribed in this Agreement;
 - (b) not apply to employees and working directors whose wages are more than the amount referred to in clause 1 (2) (b) of the Main Collective Agreement of the Council.
- (3) Clauses 1 (1) (a), 2, 3 and 8 (5) of this Agreement shall not apply to employers and employees who are not members of the employers' organisation and trade union respectively.

2. PERIOD OF OPERATION OF AGREEMENT

This Agreement shall come into operation on a date to be fixed by the Minister of Labour in terms of section 32 (2) of the Act, and shall remain in force until 30 June 2004.

3. SPECIAL PROVISIONS

The provisions of clauses 11 (4) (b), 14 (2), 15 (1) (b) (ii), 19B, 23, 26 (13) (a) to 26 (13) (g) (v) inclusive and 37 (5) (b) and (d) of the Agreement published under Government Notice No. R. 323 of 7 March 2003 as extended and amended by Government Notices Nos. R. 798 and R. 797 of 20 June 2003 (hereinafter referred to as the "Former Agreement"), as further extended, amended and re-enacted from time to time, shall apply to employers and employees.

4. GENERAL PROVISIONS

The provisions contained in clauses 3 to 11 (4) (a), 11 (5) to 14 (1), 15 (1) (a), 15 (1) (b) (i), 15 (2) to 19A, 20 to 22, 24 to 26 (12), 26 (13) (g) (vi) to 37 (5) (a), 37 (5) (c), 37 (5) (e) to 41 of the Former Agreement (as further extended, amended and re-enacted from time to time), shall apply to employers and employees.

5. CLAUSE 3 OF THE FORMER AGREEMENT: DEFINITIONS

- (1) Substitute the following new definition for the definition of "Clothing Industry" or "Industry":

"**Clothing Industry** or **Industry**" means, without in any way limiting the ordinary meaning of the expression, the industry in which employers and their employees are associated for the making of all classes of the undermentioned items of apparel/clothing/garments:

Belts (manufactured from cloth), braces, brassieres, caps, collars, corsetry, cummerbunds, gloves, handkerchiefs, hats, hosiery (including ladies' stockings, pantihose and socks), knitted outerwear, knitted underwear; nightwear (including pyjamas), outerwear, protective wear (including overalls and wetsuits), scarves, shirts, suspenders, ties (including bowties), and underwear;

A. and includes—

- (a) all operations incidental thereto and consequent thereon and all succeeding processes or operations performed in connection therewith carried on by such employers and any of their employees, irrespective of the process or method used in such making and irrespective of whether such processes or operations are performed on the premises of such employers, or elsewhere;
- (b) all types of hand-sewing operations (including beading and embroidery), whether by hand and/or machine, on garments and/or parts of garments and irrespective of whether or not such operations are performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (c) any of the aforementioned items made for quantity production tailoring made to the order of any government department, provincial administration, S A Airways, Telkom, Transnet or local authority;
- (d) any part(s) of garments whether by means of a knitting process or otherwise;
- (e) design-room services, irrespective of whether or not such services are provided by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (f) fully-fashioned and/or semi-fashioned garments knitted on circular, flat or full-fashioned machinery;
- (g) screen process printing on garments and parts of garments performed in a clothing, textile and/or knitting establishment;
- (h) tailored outer garments for the execution of special measure orders from dealers whose customers' measurements are taken by or on the responsibility of such dealers;
- (i) the changing of labels, irrespective of whether or not such operation is performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;
- (j) the making of buttonholes, irrespective of whether or not such operation is performed by such employers and any of their employees or by an establishment or persons undertaking such work on behalf of such employers and any of their employees;

- 6. CLAUSE 4 OF THE FORMER AGREEMENT: WAGES**

- | | | Wage per
week
R c |
|--|--|-------------------------|
| Part A—Cutting Department | | |
| Maker: | | |
| Qualified | | R930,50 |
| Leamer: | | |
| First year: | | |
| First six months of experience | | R521,50 |
| Second six months of experience | | R575,50 |
| Second year: | | |
| First six months of experience | | R630,00 |
| Second six months of experience | | R688,00 |
| Third year: | | |
| First six months of experience | | R750,00 |
| Second six months of experience | | R810,00 |
| Thereafter, the wage specified in (a), i.e. | | R930,50 |
| Grader: | | |
| Qualified | | R751,50 |
| Leamer: | | |
| First year: | | |
| First six months of experience | | R491,00 |
| Second six months of experience | | R521,50 |
| Second year: | | |
| First six months of experience | | R553,00 |
| Second six months of experience | | R591,50 |
| Third year: | | |
| First six months of experience | | R630,00 |
| Second six months of experience | | R671,00 |
| Thereafter, the wage specified in (a), i.e. | | R751,50 |

	Wage per week R c
Football Jersey Cutter:	
(a) Qualified	R522,50
(b) Learner:	
First year:	
First six months of experience	R392,50
Second six months of experience	R415,50
Second year:	
First six months of experience	R437,00
Second six months of experience	R460,50
Third year:	
First six months of experience	R483,00
Thereafter, the wage specified in (a), i.e.	R522,50
Layer-up:	
(a) Qualified	R450,50
(b) Learner:	
First year:	
First six months of experience	R379,00
Second six months of experience	R392,50
Second year:	
First six months of experience	R410,00
Thereafter, the wage specified in (a), i.e.	R450,50
Part B—Factory operatives	
Grade A employee:	
(a) Qualified	R575,50
(b) Learner:	
First year:	
First six months of experience	R405,00
Second six months of experience	R436,00
Second year:	
First six months of experience	R466,50
Second six months of experience	R491,00
Third year:	
First six months of experience	R522,50
Thereafter, the wage specified in (a), i.e.	R575,50
Grade B employee:	
(a) Qualified	R492,00
(b) Learner:	
First year:	
First six months of experience	R399,00
Second six months experience	R420,00
Second year:	
First six months of experience	R441,50
Thereafter, the wage specified in (a), i.e.,	R492,00
(c) If advanced to Grade A employee:	
First six months from date of advancement	R492,00
Second six months from date of advancement	R506,50
Third six months from date of advancement	R522,50
Thereafter, the wage specified for a qualified Grade A employee, i.e.,	R575,50
Grade C employee:	
(a) Qualified	R436,00
(b) Learner:	

	Wage per week R c
First year:	
First six months of experience	R391,50
Second six months of experience	R402,50
Thereafter, the wage specified in (a), i.e.,	R436,00
(c) If advanced to Grade B employee:	
First six months from date of advancement	R436,00
Second six months from date of advancement	R441,50
Thereafter, the wage specified for a qualified Grade B employee, i.e.,	R492,00
Part C—Clerical employees	
Clerk:	
(a) Qualified	R634,50
(b) Learner:	
First year	R467,50
Second year	R508,00
Third year:	
First six months of experience	R555,50
Thereafter, the wage specified in (a), i.e.,	R634,50
Factory Clerk:	
(a) Qualified	R476,00
(b) Learner:	
First year	R379,00
Second year	R404,00
Third year:	
First six months of experience	R436,00
Thereafter, the wage specified in (a), i.e.,	R476,00
Part D—General	
Boiler attendant	R452,00
Despatch packer	R466,50
General worker	R436,00
Labourer	R441,50
Motor vehicle driver of a vehicle, the unladen mass of which, together with the unladen mass of any trailer or trailers drawn by such vehicle—	
(a) does not exceed 1 360 kg	R466,50
(b) exceeds 1 360 but not 2 720 kg	R484,50
(c) exceeds 2 720 kg	R553,00
Supervisor, quality controller and instructor	R591,50
Traveller's driver	R484,50
Watchman or caretaker, whose ordinary hours of work are—	
(a) less than 60 hours per week	R504,00
(b) 60 hours per week	R528,50

(2) In subclause (9), substitute the expression "1,87%" for the expression "1,5%".

(3) In subclause (10), substitute the expression "Government Notice No. R. 323 of 7 March 2003" for the expression "Government Notice No. R. 112 of 9 February 2001", where it occurs.

(4) In subclause (11), substitute the expression "2003" for the expression "2002", where it occurs.

7. CLAUSE 22 OF THE FORMER AGREEMENT: EXPENSES OF THE COUNCIL AND REGIONAL CHAMBER

(1) In subclause (1), substitute the expression "88 cents per week" for the expression "48 cents per week".

8. CLAUSE 37 OF THE FORMER AGREEMENT: DISPUTE PROCEDURE

Substitute the following for clause 37:

"CLAUSE 37: DISPUTE PROCEDURE

- (1) Unless otherwise provided in the Council's Constitution or in this Collective Agreement, any dispute within the registered scope of the Council shall be resolved as set out below:
 - (a) The General Secretary of the Council shall, after consultation with the Secretary of any relevant Regional Chamber, decide whether any dispute referred to the Council must be dealt with by the Council or the Regional Chamber.
 - (b) The Council shall, from time to time, adopt by resolution, guidelines for the General Secretary of the Council to follow in the allocation of such disputes.
 - (c) When any dispute is allocated to a Regional Chamber in terms of this clause, then such Regional Chamber shall have the same rights, powers and obligations as the Council.
- (2) **Accreditation**
 - (a) With a view to performing its dispute resolution functions in terms of section 51 (3) of the Act only, the Council shall by decision apply to the governing body of the CCMA for accreditation to perform these functions, as appropriate.
 - (b) In the event that the Council fails to secure such accreditation, the Council may enter into an agreement with the CCMA in terms of which the CCMA is to perform, on behalf of the Council, its dispute resolution functions in terms of section 51 (3) of the Act.
- (3) **Panel of conciliators, arbitrators and senior arbitrators**
 - (a) The Council shall appoint—
 - (i) a panel of conciliators, for the purpose of conciliating disputes;
 - (ii) a panel of arbitrators, for the purpose of determining disputes;
 - (iii) a panel of senior arbitrators, for the purpose of determining disputes where—
 - (aa) the nature of the questions of law raised by the dispute;
 - (bb) the complexity of the dispute;
 - (cc) conflicting arbitration awards, Labour Court precedents or Labour Appeal Court precedents; and/or
 - (dd) the public interestrequires the appointment of a senior arbitrator and a party to the dispute requests that the Council refer the dispute for determination by a senior arbitrator.
 - (b) The Council shall determine from time to time the number of persons to be appointed to the panels of conciliators and arbitrators.
 - (c) All parties to the Council shall attempt to reach agreement on the persons to be appointed to the conciliation and arbitration panels. In the event that the parties to the Council cannot agree on the appointment of some or all of the conciliators and arbitrators, the following process shall be followed:
 - (i) The union parties to the Council shall prepare a list of nominees to fill the remaining vacancies on each panel, and the employer parties to the Council shall do likewise.
 - (ii) The lists prepared by the parties shall be exchanged, and the union shall rank the nominees of the employer parties in order of their preference, and the employer parties shall do likewise in respect of the nominees of the union parties.
 - (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' lists shall 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 General Secretary of the Council shall draw the name of the remaining appointee.
 - (d) The arbitrators and senior arbitrators are to be appointed to the relevant 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 arbitrators and senior arbitrators not be re-appointed, all parties to the Council shall attempt to reach agreement on the persons to be appointed to the panel or senior panel, failing which the remaining vacancies shall be filled in accordance with the method described in subclause (3) (c) above.
 - (e) Notwithstanding subclause (3) (d) above, the Council may remove a member of the panel of conciliators or arbitrators from office—

- (i) for serious misconduct; or
 - (ii) owing to incapacity; or
 - (iii) if at least one half of the employer parties and at least one half of the union parties have voted in favour of the removal of that member from the panel.
- (f) If for any reason there is a vacancy on the panels, the Council may appoint a new member to the relevant panel in accordance with the method described in subclause (3) (c) above for the unexpired portion of the predecessor's term of office.
- (g) Subject to subclause (3) (i), a person may be appointed to one or more of the panel of conciliators or arbitrators or senior arbitrators.
- (h) An employee of the Council shall be eligible for appointment to the panel of conciliators and the panel of arbitrators: Provided that, should the Council have an interest in the dispute to be arbitrated, employees of the Council shall not be eligible to arbitrate the dispute.
- (i) An employee of the Council shall not be eligible for appointment to the panel of senior arbitrators.
- (j) Unless the parties to the dispute have agreed on a member of the relevant panel to conciliate or arbitrate their dispute or on a procedure to allocate disputes to the panel, the General Secretary of the Council or another designated official shall appoint a member of the relevant panel to conciliate or arbitrate the dispute on a rotational basis, with the next available conciliator, arbitrator or senior arbitrator being appointed, as the case may be, should any panel member(s) not be available in terms of such rotation.

(4) *Disputes involving non-parties to the Council*

Any dispute contemplated in section 51 (3) of the Act, where any party to the dispute is not a party or a member of a party to the Council shall be resolved by the Council in accordance with the following procedure:

(a) *Referral and conciliation of disputes*

- (i) Any of the parties to the dispute may refer the dispute in writing to the Council, setting out the nature of the dispute and the outcome sought.
- (ii) The party who refers the dispute to the Council shall satisfy the Council that a copy of the referral has been served on all other parties to the dispute.
- (iii) The General Secretary or other designated official shall appoint a member of the panel of conciliators who shall attempt to resolve the dispute through conciliation within thirty (30) days from the date of the Council's receiving the written referral of the dispute, or any extended period as agreed to in writing by the parties to the dispute.
- (iv) The conciliator may, during conciliation proceedings—
 - (aa) mediate the dispute;
 - (bb) conduct a fact-finding exercise; and
 - (cc) make a recommendation to the parties to the dispute, which may be in the form of a non-binding advisory arbitration award.
- (v) Representation of a party to the dispute in the conciliation proceedings shall be in accordance with the provisions of the Act in relation to conciliation proceedings at the CCMA.
- (vi) At the end of the thirty (30) day period, referred to in subclause (4) (a) (iii) above or any further period agreed to in writing by the parties to the dispute, the General Secretary or other designated official of the Council shall issue a certificate stating whether or not the dispute has been resolved.
- (vii) Nothing in this Agreement shall prevent an officer or an employee of the Council from investigating the dispute or attempting to conciliate the dispute before the appointment of a conciliator.

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

- (i) If the dispute remains unresolved after conciliation, any party to the dispute may request that the dispute be resolved through arbitration if—
 - (aa) the Act requires that the dispute be arbitrated; or
 - (bb) all the parties to the dispute consent to arbitration under the auspices of the Council, irrespective of whether such dispute may be subject to the jurisdiction of the CCMA or Labour Court in terms of the Act.
- (ii) Upon receipt of such written request for arbitration from a party to the dispute, the General Secretary or other designated official of the Council shall appoint a member of the relevant panel of arbitrators to arbitrate the dispute.
- (iii) Such written request for arbitration shall be made within the time period prescribed in the Act, provided that the arbitrator may permit a late request for arbitration on good cause shown.

- (iv) The General Secretary or other designated official of the Council shall serve notice of the date, time and venue of the arbitration on the parties to the dispute.
- (v) 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 the arbitrator to be frivolous or vexatious.
- (vi) Any party who has a legal interest in the outcome of the arbitration and a party whose application in terms of subclause (4) (b) (v) above has been granted by the arbitrator, shall have the right to—
 - (aa) give evidence;
 - (bb) call witnesses;
 - (cc) question the witnesses of any other party;
 - (dd) address arguments to the arbitrator;
 - (ee) be represented in accordance with the provisions of sections 138 and 140 of the Act.
- (vii) The arbitration proceedings shall be conducted in accordance with the provisions of the Code of Conduct for conciliators and arbitrators as agreed to by the Council, sections 138 and 142 and, if applicable, sections 139, 140 and 141 of the Act, read with the changes required by the context.
- (viii) Representation at arbitration proceedings shall be in accordance with the provisions of the Act in relation to arbitration proceedings at the CCMA.
- (ix) The arbitrator who has been appointed to resolve the dispute shall have the powers of a Commissioner in terms of sections 138 and 142 of the Act.
- (x) Subject to the provisions of the Act, an award made by the arbitrator appointed to resolve the dispute shall be final and binding on the parties to the dispute. The arbitrator shall, however, have the power to vary, rescind or amend an award made by him/her on good cause shown or of his own accord; and, without limiting the generality thereof, 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;
 - (bb) the award is ambiguous or contains an obvious error or omission;
 - (cc) the award was granted as a result of a mistake common to the parties to the proceedings.
- (xi) The Council shall serve the award, together with any written reasons, on all parties to the dispute.
- (xii) Upon receipt of a written request from a party to the dispute, the General Secretary or other designated official of the Council shall apply to the director to certify that the arbitration award is an award contemplated in section 143 (1) of the Act.

(5) Disputes Involving parties to the Council

- (a) 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.
- (b) If the dispute between the parties is one which arises from negotiations entered into for the purpose of concluding a collective agreement in the Council or in any Regional Chamber, the General Secretary or other designated official shall appoint a member of the panel of conciliators, who shall attempt to resolve the dispute through conciliation within thirty (30) days from the date when the dispute was minuted or referred to the Council, or within any extended period as agreed to in writing by the parties to the dispute. If the dispute remains unresolved, the parties may exercise their rights in terms of the Act.
- (c) Any other dispute between parties to the Council, which the Act requires to be arbitrated or which disputes would otherwise be adjudicated by the Labour Court, but which the parties to the dispute have agreed to arbitrate, including a dispute about the interpretation or application of the provisions of this Agreement and/or any collective agreement between the parties to the dispute, shall be resolved by the Council in accordance with the procedure set out in subclause (4) above, subject to the proviso in subclause (5) (d) below.
- (d) Upon receipt of a written request for arbitration of a dispute about the interpretation or application of the provisions of this Agreement and/or any collective agreement between the parties to the dispute, the General Secretary or other designated official of the Council shall appoint a member of the panel of senior arbitrators to arbitrate the dispute.

(6) Compliance procedure and enforcement of collective agreements by Council

- (a) The Council shall request the Minister to appoint certain identified persons to be the designated agents of the Council to promote, monitor and enforce compliance with this Collective Agreement concluded in the Council.
- (b) Such designated agents shall perform the functions and have the powers set out in the Act, including sections 33 and 33A and Schedule 10 of the Act. It is specifically recorded that such designated agent shall have the power to issue a compliance order.
- (c) The Council shall take all reasonable steps necessary to ensure compliance with this Agreement and with the collective agreements concluded in the Council. If, whether through its own investigations or through any other source, it appears that the provisions of such an agreement may have been breached, then the following procedures shall apply to enforce compliance:
 - (i) The General Secretary of the Council shall appoint a designated agent to investigate the alleged breach and may delegate such powers of appointment to the Secretary of a Regional Chamber.
 - (ii) If, upon completion of the investigation, the designated agent has reason to believe that an agreement has been breached, the agent may endeavour to secure compliance with the agreement, in terms of guidelines of, or decisions by, the Council, where these exist, by—
 - (aa) publicising the contents of the agreement;
 - (bb) conducting inspections;
 - (cc) investigating complaints;
 - (dd) endeavouring to secure compliance with the agreement through conciliation; or
 - (ee) issuing a compliance order requiring any person bound by the agreement to comply with the agreement within a specified period.
 - (iii) The designated agent shall report all disputes concerning compliance with any provision of a collective agreement to the General Secretary of the Council and a designated official of the Regional Chamber.
 - (iv) Upon receipt of the report of an unresolved dispute, the General Secretary or other designated official of the Council or Regional Chamber may refer the unresolved dispute to arbitration.
 - (v) The General Secretary or other designated official of the Council or Regional Chamber shall appoint a member of the relevant panel of arbitrators to arbitrate the dispute.
 - (vi) The General Secretary or other designated agent of the Council or Regional Chamber shall serve notice of the date, time and venue of the arbitration on the parties to the dispute.
 - (vii) If a party to such an arbitration is not a party to the Council and objects to the appointment of a member of the panel, the General Secretary or other designated official of the Council or Regional Chamber shall request the CCMA to appoint an arbitrator, in which event the objecting party shall pay the arbitrator's fee to the Council, and the Council shall pay the fee set by the CCMA.
 - (viii) The provisions of subclauses (4) (b) (v) to (4) (b) (xii) above shall apply to an arbitration in terms of this clause.
 - (ix) In addition, an arbitrator conducting an arbitration in terms of this clause may make any appropriate award including—
 - (aa) ordering any person to pay any amount owing in terms of a collective agreement;
 - (bb) imposing a fine for a failure to comply with a collective agreement in accordance with Item 29 of Schedule 7 and section 33A (13) of the Act;
 - (cc) charging a party to the arbitration an arbitration fee;
 - (dd) ordering a party to the arbitration to pay the costs of the arbitration;
 - (ee) confirming, varying or setting aside a compliance order issued by a designated agent;
 - (ff) any award contemplated in section 138 (9) of the Act;
 - (gg) any award in relation to the interest payable on any amount that a person is obliged to pay in terms of a collective agreement.
 - (x) Subject to the provisions of the Act, an award in an arbitration conducted in terms of this subclause shall be final and binding on the parties to the dispute.
 - (xi) The General Secretary or other designated official of the Council may apply to the director to certify that the arbitration award is an award contemplated in section 143 (1) of the Act.

- (xii) The provisions of this procedure stand in addition to any other legal remedy through which the Council may enforce a collective agreement."

Signed at Cape Town on behalf of the parties this 10th day of July 2003.

C. O. JEFTHA

Chairperson

M. W. SIDDONS

Vice-Chairperson

W. A. ROBERTS

Acting General Secretary

**Dog ate your Gazette?
... read it online**



www.SA Gazettes.co.za
.....

A new information Portal keeping you up to date with news, legislation, the Parliamentary programme and which is the largest pool of SA Gazette information available on the Web.

- Easily accessible through the www!
 - Government Gazettes - from January 1994
 - Compilations of all Indexes pertaining to the past week's Government Gazettes
 - All Provincial Gazettes - from September 1995
 - Parliamentary Bills - as of January 1999
- Available in full-text, with keyword searching
- Sabinet Online scans, formats, edits and organize information for you. Diagrams and forms included as images.
- No stacks of printed gazettes - all on computer. Think of the storage space you save.
- Offers Bill Tracker - complementing the SA Gazettes products.

For easy electronic access to full-text gazette info, subscribe to the SA Gazettes from Sabinet Online. Please visit us at www.sagazettes.co.za

Sabinet
 **Online**

Tel: (012) 643-9500, Fax: (012) 663-3543, Toll free: 0800 11 8595, e-mail: corporate@sabinet.co.za, www: <http://corporate.sabinet.co.za>

*Looking for back copies and out of print issues of
the Government Gazette and Provincial Gazettes?*

The National Library of SA has them!

Let us make your day with the information you need ...

National Library of SA, Pretoria Division

PO Box 397

0001 PRETORIA

Tel.:(012) 321-8931, Fax: (012) 325-5984

E-mail: infodesk@nlsa.ac.za



*Soek u ou kopieë en uit druk uitgawes van die
Staatskoerant en Provinsiale Koerante?*

Die Nasionale Biblioteek van SA het hulle!

Met ons hoef u nie te sukkel om inligting te bekom nie ...

Nasionale Biblioteek van SA, Pretoria Divisie

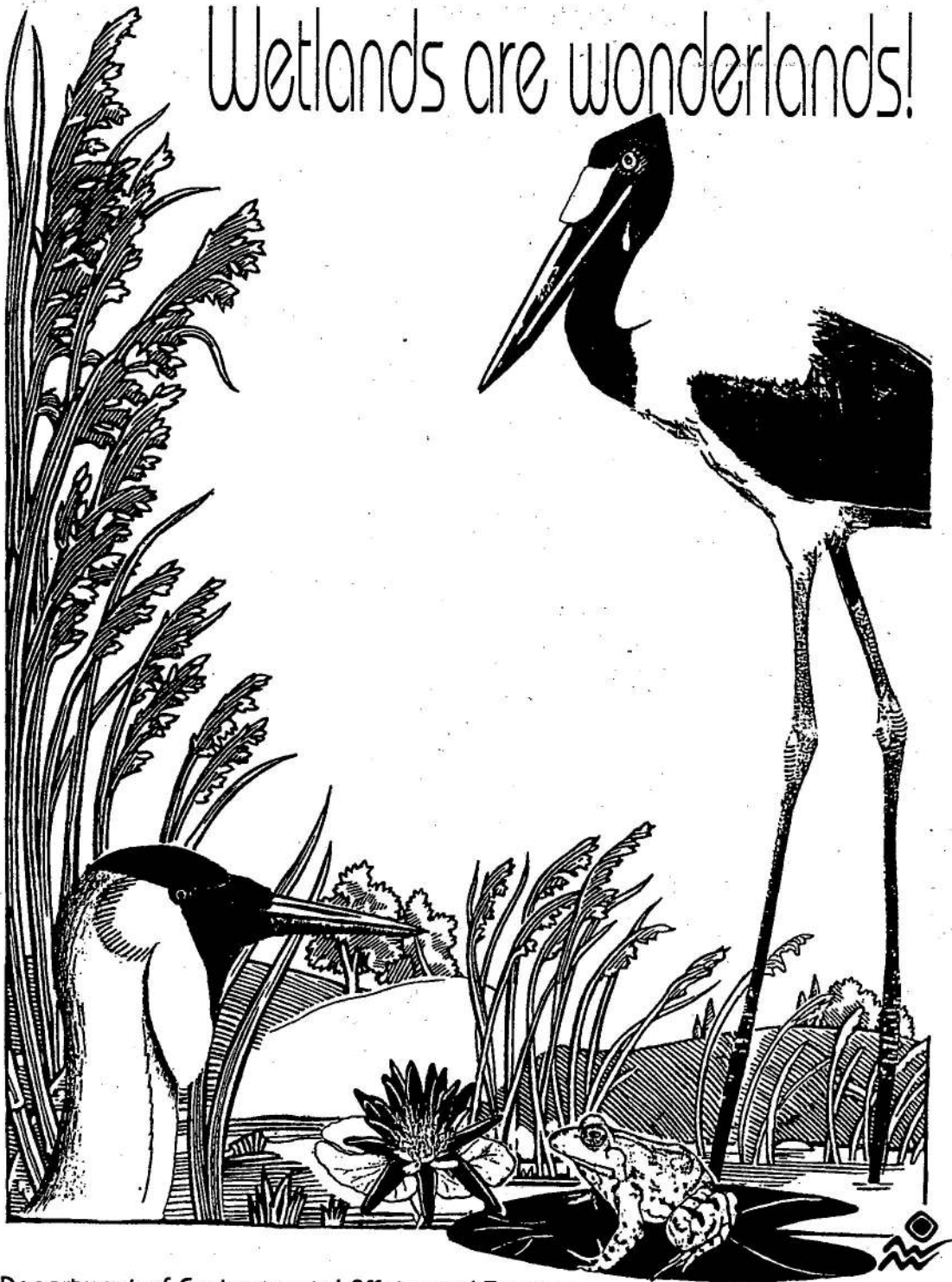
Posbus 397

0001 PRETORIA

Tel.:(012) 321-8931, Faks: (012) 325-5984

E-pos: infodesk@nlsa.ac.za

Wetlands are wonderlands!



Department of Environmental Affairs and Tourism

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001

Publications: Tel: (012) 334-4508, 334-4509, 334-4510

Advertisements: Tel: (012) 334-4673, 334-4674, 334-4504

Subscriptions: Tel: (012) 334-4735, 334-4736, 334-4737

Cape Town Branch: Tel: (021) 465-7531

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaatsak X85, Pretoria, 0001

Publikasies: Tel: (012) 334-4508, 334-4509, 334-4510

Advertensies: Tel: (012) 334-4673, 334-4674, 334-4504

Subskripsies: Tel: (012) 334-4735, 334-4736, 334-4737

Kaapstad-tak: Tel: (021) 465-7531