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GOVERNMENT NOTICES GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF LABOUR DEPARTEMENT VAN ARBEID

No. R. 867**9 September 2005**

LABOUR RELATIONS ACT, 1995

**NATIONAL BARGAINING COUNCIL OF THE LEATHER INDUSTRY OF SOUTH AFRICA: EXTENSION TO NON-PARTIES
OF THE GENERAL GOODS AND HANDBAG SECTION COLLECTIVE AMENDING AGREEMENT**

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 of the Leather Industry of South Africa 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 19 September 2005 and for the period ending 30 June 2006.

M.M.S. MDLADLANA**Minister of Labour****No. R. 867****9 September 2005**

WET OP ARBEIDSVERHOUDINGE, 1995

**NASIONALE BEDINGINGSRAAD VIR DIE LEERNYWERHEID VAN SUID-AFRIKA: UITBREIDING NA NIE-PARTYE VAN
DIE ALGEMENE GOEDERE EN HANDSAKSEKSIE KOLLEKTIEWE WYSIGINGSOOREENKOMS**

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 Leernywerheid van Suid-Afrika 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 van daardie Nywerheid, met ingang van 19 September 2005, en vir die tydperk wat op 30 Junie 2006 eindig.

M.M.S. MDLADLANA**Minister van Arbeid****NATIONAL BARGAINING COUNCIL OF THE LEATHER INDUSTRY OF SOUTH AFRICA****GENERAL GOODS AND HANDBAG SECTION****COLLECTIVE AGREEMENT**

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

Association of South African Manufacturers of Luggage, Handbags and General Goods

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

National Union of Leather and Allied Workers

and

Southern African Clothing and Textile Workers' Union

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

being the parties to the National Bargaining Council of the Leather Industry of South Africa, to amend the Agreement for the General Goods and Handbag Section, published under Government Notice No. R. 1316 of 6 November 1998, as amended, extended, renewed and re-enacted by Government Notices Nos. R. 288 of 12 March 1999, R. 1273 of 29 October 1999, R. 46 of 28 January 2000, R. 647 of 30 June 2000, R. 1173 of 24 November 2000, R. 388 of 18 May 2001, R. 1223 of 30 November 2001, R. 692 of 17 May 2002, R. 1216 of 4 October 2002, R. 713 of 6 June 2003, R. 1358 of 3 October 2003, R. 660 of 28 May 2004, R. 206 of 18 March 2005 and R. 569 of 17 June 2005.

1. SCOPE OF APPLICATION OF AGREEMENT

- (1) The terms of this Agreement shall be observed in the General Goods and Handbag Section of the Leather Industry:
- (a) in the Republic of South Africa, which includes the former Republic of Transkei, the former Republic of Bophuthatswana, the former Republic of Venda and the former Republic of Ciskei, as well as the former self-governing territories of KwaZulu, Qwa-Qwa, Lebowa, Gazankulu, KaNgwana and KwaNdebele;
 - (b) by all employers who are members of the employers' organisation, and by all employees who are members of the trade unions, who are engaged or employed in the General Goods and Handbag Section of the Leather Industry.
- (2) Notwithstanding the provisions of subclause (1), the terms of this Agreement shall apply only to employees for whom wages are prescribed in Annexure C to this Agreement, and to the employers of such employees.
- (3) The terms of this Agreement shall not apply to non-parties in respect of clauses 1 (1) (b), 2 and 5.

2. CLAUSE 2: DATE AND PERIOD OF OPERATION

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 2006.

3. CLAUSE 4: WAGES, RATES AND REMUNERATION

1. Substitute the following for subclause (7) (i):

"(i) Employees who work before their usual starting time and after their usual finishing time shall be paid as follows: Monday to Saturday at their hourly rate, plus 50%".

2. Add the following new subclause (7) (iii):

"(iii) Payments at the above overtime rates shall be subject to employees completing the ordinary hours for the working week as stipulated in subclause (3): Provided that, where the required working week has not be completed because of the implementation of short-time, or the granting of any leave authorized in terms of a provision of this Agreement, or any relevant statute, this shall not be taken into account in calculating the ordinary hours for that working week.".

4. CLAUSE 8: PUBLIC HOLIDAYS, ANNUAL HOLIDAYS, MATERNITY AND SICK LEAVE

1. Amend subclause (14), by numbering the existing subclause as paragraph (a). Numbering in document inconsistent, but general pattern is:

- Clause 1, 2, 3, etc.
- Subclause (1), (2), etc.
- Paragraph (a), (b), etc.
- Subparagraph (i), (ii).

2. Add the following new subclauses (14) (b), (c) and (d):

"(b) Employers shall not be required to pay employees in terms of the provision in paragraph (a) of this subclause if, on request by the employer, the employee does not produce a medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sickness or injury.

- (c) In respect of absence of one day only, however, requests for medical certificates shall be made only if—
- (i) there has been a previous occasion on which the employer paid the employee for sick leave; and
 - (ii) the employer was not satisfied that the absence was due to the employee's incapacity as a result of sickness or injury; and
 - (iii) the employer advised the employee in writing that payment of sick leave would, in future, be subject to the production of a medical certificate.

(d) Medical certificates shall be issued and signed by a medical practitioner or any person who is certified to diagnose and treat patients, and who is registered with a professional council established by an Act of Parliament."

5. CLAUSE 13: ORGANISATIONAL RIGHTS

Substitute the following for subclause (4):

"(4) Shop stewards' training

An elected shop steward shall be entitled to six days' paid and one day's unpaid leave in a calendar year to attend training courses or for other trade union business. The granting of paid leave in terms of this subclause shall be limited to one shop steward per 50 employees for whom trade union subscriptions are being deducted."

6. ANNEXURE C

Substitute the following for Annexure C:

ANNEXURE C**WAGE RATES**

	Column A Per week	Column B Per week
(A) The following wage rates shall be paid to employees engaged in the General Goods and Handbag Section of the Industry:		
(i) Foreman (Grade C1)	785,07	863,58
(ii) Chargehand (Grade B2)	596,49	656,15
(iii) Despatch clerk (Grade A3)	502,30	552,53
(iv) Driver of a motor vehicle authorised to carry or haul a payload of:		
(a) Under 2 722 kg (Grade B1)	520,61	572,67
(b) Over 2 722 kg (Grade B2)	596,49	656,15
(v) General worker (Grade A1)	388,51	427,36
(vi) Night watchman (Grade A2)	422,64	464,90
(vii) Packer (Grade A1)	388,51	427,36
(viii) Storeman (Grade A3)	502,30	552,53
(B) The following wage rates shall be paid to qualified employees engaged in the manufacture of travelling requisites, saddlery, harnesses, braces, personal goods and handbags:		
(i) Grade A1	388,51	427,36
(ii) Grade A2	422,64	464,90
(iii) Grade A3	502,30	552,53
(iv) Grade B1	520,61	572,67
(v) Grade B2	596,49	656,15
(vi) Grade B3	653,14	718,45
(C) The following wage rates shall be paid to qualified employees engaged in the manufacture of balls in the Magisterial Districts of Bellville, Goodwood and Durban, and of cricket and hockey balls in the Magisterial District of Wynberg:		
(i) Grade A1	388,51	427,36
(ii) Grade A2	422,64	464,90
(iii) Grade A3	502,30	552,53
(iv) Grade B1	520,61	572,67
(v) Grade B2	596,49	656,15
(vi) Grade B3	653,14	718,45
(D) The following wage rates shall be paid to learners, other than those referred to in subclause (A):		
During the first six months of experience	314,95	346,45
During the second six months of experience	375,97	413,57

Signed on behalf of the parties at Durban this 26th day of May 2005.

C. L. KOPPS,
Member of the Council

F. ABRAHAMS,
Member of the Council

M. PAULSEN,
Member of the Council

L. VAN LOGGERENBERG,
General Secretary of the Council

No. R. 868

9 September 2005

LABOUR RELATIONS ACT, 1995

METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL: EXTENSION OF RE-ENACTING AND AMENDING COLLECTIVE AGREEMENT TO NON-PARTIES

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of section 32 (2) of the Labour Relations Act, 1995, declare that the collective agreement which appears in the Schedule hereto, which was concluded in the Metal and Engineering Industries Bargaining Council and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the agreement, shall be binding on the other employers and employees in that industry, with effect from 19 September 2005 and for the period ending 30 June 2007.

M. M. S. MDLADLANA
Minister of Labour

No. R. 868

9 September 2005

WET OP ARBEIDSVERHOUDINGE, 1995

METAAL- EN INGENIEURSNYWERHEDE BEDINGINGSRAAD: UITBREIDING VAN KOLLEKTIEWE HERBEKRAGTIGINGS- EN WYSIGINGSOOREENKOMS NA NIE-PARTYE

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, verklaar hierby, kragtens artikel 32 (2) van die Wet op Arbeidsverhoudinge, 1995, dat die Kollektiewe Ooreenkoms wat in die Bylae hiervan verskyn en wat in die Metaal- en Ingenieursnywerhede Bedingingsraad aangegaan is en kragtens artikel 31 van die Wet op Arbeidsverhoudinge, 1995, bindend is op die partye wat die ooreenkoms aangegaan het, bindend is vir die ander werkgewers en werknemers in daardie Nywerheid, met ingang van 19 September 2005 en vir die tydperk wat op 30 Junie 2007 eindig.

M. M. S. MDLADLANA
Minister van Arbeid

SCHEDULE**METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL
RE-ENACTING AND AMENDING MAIN COLLECTIVE AGREEMENT**

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

Association of Electric Cable Manufacturers of South Africa
Association of Metal Service Centres of South Africa
Border Industrial Employers' Association
Babalegi Metal Industries Association
Bright Bar Association
Cape Engineers' and Founders' Association
Consolidated Association of Employers of South Africa (CAESAR)
Constructional Engineering Association (South Africa)
Covered Conductor Manufacturers' Association
Electrical Engineering and Allied Industries' Association
Electric Manufacturers' Association of South Africa (EMASA)
Electronics and Telecommunications Industries' Association
Federated Employers' Organisation of South Africa (FEOSA)
Gate and Fence Association
Hand Tool Manufacturers' Association (HATMA)
KwaZulu-Natal Engineering Industries' Association
Lift Engineering Association of South Africa
Light Engineering Industries' Association of South Africa
Materials Handling Association
National Employers' Association of S.A. (NEASA)
Non-ferrous Metal Industries' Association of South Africa
Plastics Converters' Association of South Africa

Port Elizabeth Engineers' Association
 Pressure Vessel Manufacturers' Association of South Africa
 Radio, Appliance and Television Association of South Africa (RATA)
 Refrigeration and Air-Conditioning Manufacturers' and Suppliers' Association
 Sheetmetal Industries' Association of South Africa
 SA Electro-Plating Industries' Association
 SA Engineers' and Founders' Association
 SA Fastener Manufacturers' Association (SAFMA)
 SA Refrigeration and Air-conditioning Contractors' Association (SARACCA)
 SA Posts Tensioning Association (SAPTA)
 SA Pump Manufacturer's Association
 SA Reinforced Concrete Engineers' Association (SARCEA)
 SA Valve and Actuator Manufacturers' Association (SAVAMA)
 SA Wire and Wire Rope Manufacturers' Association

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

Chemical, Energy, Paper, Printing, Wood and Allied Workers' Union] (CEPPWAWU)
 Metal and Electrical Workers' Union of South Africa
 Solidarity/MWU—Solidariteit/MWU
 United Association of SA (UASA)
 National Union of Metalworkers of South Africa (NUMSA)
 SA Equity Workers' Association (SAEWA)

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

PART 1

CONDITIONS OF EMPLOYMENT

1. SCOPE OF APPLICATION OF AGREEMENT

- (1) The terms of this Agreement shall be observed—
 - (a) in the Iron, Steel, Engineering and Metallurgical Industry throughout the Republic of South Africa;
 - (b) in the Provinces of the Transvaal and Natal by the section in the Industry concerned, with the installation, repair and servicing of radios, refrigerators and domestic electrical appliances;
 - (c) in the Magisterial Districts of Durban, East London, Johannesburg, Pietersburg, Pinetown and The Cape by the section of the Industry concerned with radio manufacture;
 - (d) by all employers who are members of the employers' organisations and by all employees who are members of the trade unions.
- (2) Notwithstanding the provisions of clauses 1 (1) (d), 2 and 3, the terms of this Agreement shall not apply to employers and employees who are not members of the employers' organisations and trade unions, respectively.
- (3) Notwithstanding the provisions of subclause (1), the terms of this Agreement shall not apply to the following:
 - (a) The installation, repair and servicing of radios and domestic electrical appliances in the Provinces of the Cape of Good Hope and the Orange Free State;
 - (b) the manufacture, for sale, of standard high-speed cutting tools made from high-speed steel by means of plant and/or equipment and/or methods specifically adapted and/or designed for production by repetitive processes, in the Magisterial Districts of Boksburg, Johannesburg, Pietermaritzburg and Vereeniging;
 - (c) the manufacture of aluminium sheet and/or foil, and interrelated operations;
 - (d) the installation and/or repair and/or maintenance of electrical lifts and escalators;
 - (e) the production of iron and/or steel and/or ferro-alloys;
 - (f) the installations, maintenance and repair of electrical equipment referred to in paragraph (b) of the definition of "Electrical Engineering Industry" in clause 3 of Part 1 of the Agreement, published under Government Notice No. R. 404 of 31 March 1998, in the Provinces of the Cape of Good Hope and the Orange Free State;
 - (g) the manufacture of tungsten carbide (hard metal);
 - (h) the assembling, servicing, installation, maintenance and/or repair of appliances, equipment, machines, devices and apparatus, whether utilising manual, photographic, mechanical, electrical, electrostatic or electronic principles or any combination of such principles, that are primarily intended for use in accounting and/or business and/or calculation and/or office and/or educational procedures;

- (i) the Venetian Blind and Allied Products Manufacturing Industry in the Province of the Transvaal;
 - (j) the installation and/or repair of burglar and/or other similar alarm systems in the Provinces of the Cape of Good Hope and of the Orange Free State;
 - (k) the manufacture of plumbers' and/or engineers' brassware by means of gravity die-casting and/or pressure die-casting and/or hot pressing and/or machining;
 - (l) the undertaking of Union Steel Corporation of South Africa (Pty) Limited in the Magisterial District of Vereeniging, Transvaal;
 - (m) the Locksmithing Trade in the Magisterial Districts of Benoni, Boksburg, Durban, Germiston, Johannesburg, Krugersdorp, Lower Umfolozi, Pinetown, Port Elizabeth, Pretoria, Randburg, Roodepoort, Springs and The Cape;
 - (n) the production, for sale, of welding electrodes by means of plant and/or equipment and/or methods specifically adapted and/or designed for production by repetitive processes, in the Magisterial Districts of Brits, Germiston, Kempton Park and Pretoria;
 - (o) the undertaking of Billiton Aluminium SA (Pty) Ltd, in the Magisterial District of Lower Umfolozi;
 - (p) the manufacture from tin plate of a gauge not exceeding 0,416 mm of trunks and other containers designed to hold personal effects, sporting kit, tools and documents, and other lines manufactured principally from such tin plate;
 - (q) the erecting, on site, of products referred to in the preamble to Division D/7 of Part II of the Agreement published under Government Notice No. R. 404 of 31 March 1998;
 - (r) the servicing and/or maintenance and/or repairing of lawn-mowing machines, cultivators, sickle-cutters, grass-cutters, edge-trimmers, chainsaws and/or parts and/or components thereof.
- (4) Notwithstanding the provisions of subclause (1), the terms of this Agreement shall apply to—
- (a) apprentices only to the extent to which the terms are not inconsistent with the provisions of the Manpower Training Act, 1981, and learners in terms of Chapter IV of the Skills Development Act, No. 97 of 1998, or any contract entered into or any conditions fixed thereunder; and
 - (b) trainees under training in terms of section 30 of the Manpower Training Act, 1981, only in so far as the terms are not inconsistent with the provisions of the Act or any conditions fixed thereunder.
- (5) Notwithstanding the limitation of the Agreement to the operations therein scheduled—
- (a) the provisions of the clauses relating to leave pay, additional pay and leave enhancement pay or Part I of the Agreement published under Government Notice No. R. 404 of 31 March 1998 shall apply to all employees employed in operative processes receiving a rate of pay equivalent to or more than that prescribed from time to time in the Agreement for Rate D employees, whether paid weekly or monthly, but excluding payment for overtime;
 - (b) no person directly employed in a manufacturing or production process shall be paid a wage less than Rate H as prescribed from time to time in Part II of this Agreement and for the purposes of this paragraph, "employed in a manufacturing or production process" shall apply to those employees whose rate of pay is not scheduled in this Agreement but whose activities are directly concerned with the creation of the engineering goods and/or services as covered by the scope of application of this Agreement. This provision shall not apply to the work carried out by administrative staff and/or those employees employed in non-production operations.
- (6) The conditions of employment of watchmen shall be regulated by the provisions of this Agreement, except in respect of ordinary working hours, which shall be a maximum of 44 hours per week.

2. PERIOD OF OPERATION OF AGREEMENT

This Agreement shall come into operation on such date as may be fixed by the Minister of Labour in terms of section 32 of the Labour Relations Act, 1995, and shall remain in force until 30 June 2007.

3. SPECIAL PROVISIONS

The provisions contained in clause 28 of the Agreement published under Government Notice No. R. 404 of 31 March 1998 as re-enacted and amended under Government Notices Nos. R. 1491 of 27 November 1998, R. 941 of 6 August 1999, R. 1128 of 17 November 2000, R. 1051 of 26 October 2001, R. 138 of 8 February 2002, R. 1082 of 16 August 2002, R. 570 of 2 May 2003, R. 1374 of 3 October 2003, R. 542 of 30 April 2004, R. 1165 of 8 October 2004 and R. 59 of 28 January 2005 (hereinafter referred to as the "former Agreement") shall apply to employers and employees.

4. GENERAL PROVISIONS

The provisions contained in clauses 3 to 27, and 29 to 47 of Part I and Part II of the Former Agreement shall apply to employers and employees.

5. CLAUSE 4: HOURS OF WORK

1. Delete subclause (7).
2. Re-number subclause (8) as (7).

6. CLAUSE 12: LEAVE PAY

Insert the following new subclause 3 (a) (vi):

"3 (a) (vi) periods of absence on account of lay-offs in terms of item 2 of Annexure "A" aggregating not more than 48 shifts on a six-day week basis or 40 shifts on a five-day week basis, as the case may be, in any one qualifying period for paid leave, shall count for paid leave."

7. CLAUSE 13: ADDITIONAL PAID LEAVE

Substitute the following for the existing clause 13:

"13. ADDITIONAL PAID LEAVE

(1) Subject to subclause (3), an employee qualifying after the date of coming into operation of this Agreement for his fourth and subsequent consecutive paid leave deriving from continuous employment with the same employer as provided for in terms of clause 12 (3) of this Part of this Agreement shall, at that date and each year thereafter, whilst in the employ of the same employer, at the option of the employee, be entitled to an extra week's paid leave at the employer's convenience or to the equivalent value thereof: Provided that by mutual arrangement between the employer and the employee—

- (a) the paid leave referred to in clause 12 (3) of this Part of this Agreement may be extended by an extra week; or
- (b) the extra week's paid leave may be deferred from the year of qualification and accumulated by the employee until he qualifies for three such week's paid leave.

(2) Whenever the employer and the employee come to the arrangement provided for in subclause (1) (b) and the employee has qualified for three such extra weeks' paid leave (hereinafter referred to as 'the accumulated paid leave'), the employer shall grant and the employee shall take the accumulated paid leave when he is given and takes the paid leave provided for in clause 12 (3) of this Part of this Agreement, unless the employer and the employee agree to the accumulated paid leave being taken at a different time, in which case the employer shall enable the employee to take the accumulated paid leave in the period before he next qualifies for paid leave. Should the employee fail to take the accumulated paid leave within such period, the employer shall, upon the employee proceeding on the next paid leave in terms of clause 12 (3), pay out the equivalent value of the accumulated leave forthwith to the employee, whereupon his title thereto shall cease.

(3) Where an employee qualifying for his fourth period of paid leave in terms of subclause (1) was in the employ of the employer concerned for part only of the qualifying period for the first period of paid leave, he shall be entitled to a proportion of the extra week's paid leave or the equivalent value thereof pro rata to the leave qualification completed with that employer in respect of the first period of paid leave. On qualification for any subsequent consecutive period of paid leave the provisions of subclauses (1) and (2) shall *mutatis mutandis* apply.

(4) Upon the termination of the employment of an employee who has become entitled to but has not yet received the equivalent value of the additional period of paid leave provided for in this clause, he shall be paid for such extra paid leave as he has qualified for and not received: Provided that when the employment of such an employee terminates during his fourth or subsequent consecutive years of continuous employment with the same employer, he shall, according to whether the establishment works a six-day week or a five-day week, be paid for the additional leave pay pro rata to the number of shifts worked, subject to the provisions of subclause (3) above."

8. CLAUSE 14: LEAVE ENHANCEMENT PAY (L.E.P.)

Insert the following annotation at the foot of subclause 1 (b):

"Note:

For the purpose of calculating leave enhancement pay, periods of absence provided for in clauses 12(3)(a)(iii) to (vi) must be taken into account."

9. CLAUSE 18: TERMINATION OF EMPLOYMENT

Insert the following annotation under the heading of this clause:

"Note:

The periods of notice in respect of retrenched employees are set out in Annexure A of this Agreement."

10. CLAUSE 23: EXEMPTIONS

Substitute the following for the existing subclause 1:

"1. General

- (a) Any person bound by this Agreement may apply for exemption.
- (b) The authority of the Council shall consider applications for exemptions and grant exemptions.
- (c) Applications for wage increase exemptions shall be submitted to the Bargaining Council on or before 15 August 2005 and on or before 30 June 2006 in respect of wage increases for the period 1 July 2006 to 30 June 2007."

11. CLAUSE 35: SECURITY OF EMPLOYMENT AND SEVERANCE PAYMENT

Substitute the following for the existing clause 35:

"35. SECURITY OF EMPLOYMENT AND SEVERANCE PAYMENT

Substitute the following for the existing clause 35:

(1) (a) In the case of retrenchment an employer, subject to subclause (2), shall pay to each employee who is retrenched, in addition to any other amounts to which he is entitled in terms of this Agreement on termination of service, a severance payment of a minimum of one week's wages for each completed year of service with the same employer, together with the following:

- (i) pro-rata allowance(s) where applicable;
- (ii) pro-rata leave and leave enhancement pay; and
- (iii) an amount equal to the weekly employers' contribution to any applicable benefit funds of which the employee was a member at time of retrenchment,

subject to the proviso that an employee who has more than six months' service but less than a completed year's service shall receive a severance payment equal to one week's remuneration.

(b) An employer and any employee or employee representative shall at either's request consult in good faith at plant level with a view to reaching agreement on a higher severance payment than that stipulated in subclause (1) (a).

(2) (a) The procedure to be followed in the event of lay-offs, relocation or closure of an establishment, retrenchments, redundancies and the operation of limited duration contracts of employment shall be as provided for in Annexure A to this Agreement.

(b) Where non-observance of the procedures provided for under Annexure A to this Agreement gives rise to a dispute, such dispute shall be dealt with by the Bargaining Council in terms of its dispute resolution procedure."

12. CLAUSE 47: TIME OFF FOR REPRESENTATIVES OF EMPLOYER**ORGANIZATIONS WHO ACT AS TRUSTEES OF INDUSTRY BENEFIT FUNDS**

Insert the following new clause 47:

Employer organizations shall as far as possible assist their members in releasing them for duties as trustees of the Industry benefit funds and accommodate them for trustee training.

13. PART II

Substitute the following for the existing clauses 1, 2 and 3:

"1. WAGES AND/OR EARNINGS

A new five-grade job and wage structure has been determined for use in the Industry. Individual employers together with employees, their representatives and/or registered trade unions at establishment level shall accordingly mutually agree on whether or not to implement the new five-grade job and wage structure on a voluntary basis or continue to observe the existing 13 grades (Rates A to H) and related arrangements.

Details of the five-grade job and wage structure are set out in Annexure B. Details of definitions of the grades are set out in Annexure C. Details of the current 13-grade structures are set out in Part II of this Agreement.

The Tables of Wage Rates as set out in (a) to (f) hereunder have general and/or specific application to operations listed in this Agreement. For ease of reference the wage-rate categories are as follows:

- (a) Except as provided for in Wage Tables (b) to (f) hereunder, the wage rates prescribed in Wage Table (a) are applicable to all operations listed as Rates A, A1, AA, AB, B, C, D, DD, DDD, E, F, G and H, including watchman's work in—

Schedule G

Schedule M

Division D/O to D/32

Schedule E/1 and E/3

Division E/2.

- (b) Wage rates prescribed in Wage Table (b) are applicable to employees employed as vehicle drivers and have general application throughout the Technical Schedules in this Agreement.
- (c) Wage rates prescribed in Wage Table (c) have specific application to the operations listed therein.
- (d) Wage rates prescribed in Wage Table (d) apply only to the operations listed in Schedule F.
- (e) Wage rates prescribed in Wage Table (e) apply to apprentices only.
- (f) Wage rates prescribed in Wage Table (f) apply only to the operations listed in Division D/7.

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

(b) Every employee who on the date of coming into operation of this Agreement is employed by an employer on work classified in the Agreement shall, whilst in the employ of the same employer and whether or not his actual rate of pay immediately prior to the said date was in excess of the rate specified for his class of work in this Agreement, be paid not less than the actual rate he was receiving immediately prior to the said date plus, as a guaranteed personal increase, an additional amount for his class of work, as set out in the Wage Tables hereunder: Provided that—

- (i) the additional amount payable in terms of this subclause to an employee for his class of work may be reduced by the amount of any increase or increases granted to such employee on or subsequent to the pay week ending 8 July 2005 (the effective date is 1 July 2005): Provided that any employee to whom no increase or only a part of the prescribed increase was granted on or after the pay week ending 8 July 2005 (the effective date is 1 July 2005) shall be remunerated by the payment of an amount within 16 weeks after the date of the coming into operation of this Agreement on the basis stated below:

Amount per hour for the employee's class of work prescribed above	Less (if any)	Amount per hour of any increase granted to the employee on or after the pay week ending 8 July 2005 (the effective date is 1 July 2005)
--	---------------	---

multiplied by the number of hours for which the employee concerned was entitled to payment of his wage for the period from the start of his first shift of the pay week ending 8 July 2005 (the effective date is 1 July 2005) to the first shift for which the amount per hour for the employee's class of work as prescribed above is paid or the date of coming into operation of this Agreement, whichever is the later: Provided further that if the number of said hours includes hours other than ordinary hours worked, then the above calculation shall be performed separately in respect of the ordinary hours worked and each category of overtime hours in order to include the prescribed overtime premium provided for in this Agreement in each case;

- (ii) any employee who was engaged after the pay week ending 8 July 2005 (the effective date is 1 July 2005) at a rate of pay not less than the rate of pay prescribed for his class of work as at the date of coming into operation of this Agreement shall not be entitled to be paid the additional amount specified in this subclause for his class of work;
- (iii) no employer shall reduce the rate of pay of any employee to whom an increase in excess of the additional amount specified in this subclause for his class of work has been awarded on or subsequent to the pay week ending 8 July 2005 (the effective date is 1 July 2005), and no employee shall be paid wages at a rate less than the rate for his class of work specified in this Agreement;
- (iv) for the purposes of this Agreement the rate applicable in terms of this subclause shall *mutatis mutandis* apply to employees employed in incentive bonus work in terms of clause 10 of Part I of this Agreement.
- (v) an employer who intends to grant general increases to all employees, or all employees in a particular category of employees, in excess of the guaranteed personal minimum increases provided for in this Agreement, shall consult the employees concerned: Provided that, in respect of employees who are members of a union, if the employer is a member of any of the employers' organisations which are parties to the Agreement, the employer shall consult the trade unions concerned;
- (vi) where an employer, following such consultation, grants such increases over and above that provided for in this Agreement, the Bargaining Council shall be notified of the increases granted.

(2) No employee shall be required as part of his contract of service to accept board or lodging or both from his employer, nor to purchase any goods or hire any property from his employer. Where an employee agrees to accept board or lodging or both from his employer the employer may deduct from such employee's wages or earnings such amount as agreed upon for the payment of board or lodging or both: Provided that the Council is notified in writing prior to the said deductions being made and the amounts thereof.

(3) No employee shall be employed on more than one occupation scheduled in this Agreement at different rates of pay in any one week, including any overtime worked at a higher-paid occupation, unless payment is made as if such employee had been employed for the whole of that week on the highest-paid occupation: Provided that where a lower-paid employee is temporarily substituted for a higher-paid employee who is absent from his work and not employed elsewhere in the establishment, such substitute employee shall be paid at the higher rate only for the period actually worked at the higher-paid occupation. Any period of substitution of less than one-half shift in the aggregate in any one week shall not count for payment at the higher rate.

(4) Subject to the provisions of subclauses (1) to (3), inclusive, no employer shall pay to the employees engaged on any of the classes of work hereinafter specified in the following Wage Schedules wages and/or earnings lower than those stated against such classes and no employees shall accept wages and/or earnings lower than those stated against such classes.

2. ALLOWANCES

Allowances payable subject to the provisions of Part I, clause 17 of this Agreement:

(1) **Subsistence allowance under Groups A and B**

Grade and category

*Subsistence allowance
per day*

Rates A to H and Categories 5 to 1 (a) of Section G (d) Structural Engineering R37,00

(2) **Abnormally dirty work allowance** (employees other than employees expressly engaged as cleaners):

The allowance payable is 45 cents per shift or part thereof plus a further 45 cents where working overtime on abnormally dirty work for four hours or more.

(3) **Height allowance:** Eight per cent of the employee's normal hourly rate when working aloft on ships and/or floating vessels.

3. WAGE TABLES

A. For the period 19 September 2005 to 30 June 2006:

**(a) WAGE RATES APPLICABLE TO OPERATIONS SCHEDULED AT RATES A TO H,
INCLUDING WATCHMAN'S WORK, THROUGHOUT THIS AGREEMENT**

	GUARANTEED PERSONAL INCREASE (To be the greater of the amounts calculated in terms of Column A or reflected in Column B)		
	A	B	New
	Percentage increase on actual hourly rate of pay, excluding allowances, of which the employee was in receipt on 30 June 2005	Amount per hour	Minimum hourly wage rates
Class of work	%	CPH	R
Rate A & A1	5,20	153	30,94
Rate AA	5,33	148	29,24
*Rate AA—start	5,47	143	27,65
Rate AB	5,60	139	26,14
Rate B	5,73	134	24,73
Rate C	5,87	131	23,56
Rate D	6,00	129	22,83
Rate DD	6,13	121	20,95
Rate DDD	6,27	117	19,82
Rate E	6,40	113	18,73
Rate F	6,53	109	17,74
Rate G	6,67	105	16,74
Rate H (including watchman's work)	6,80	101	15,82

- * 'Rate AA—start' is the rate applicable to employees in the category AA who are in their first six months of continuous employment with the same employer, unless otherwise specified elsewhere in this Agreement.

(b) WAGE RATES APPLICABLE TO VEHICLE DRIVING—EXTERNAL TRANSPORT INCLUDING FORKLIFT DRIVING

Class of work	GUARANTEED PERSONAL INCREASE (To be the greater of the amounts calculated in terms of Column A or reflected in Column B)		
	A	B	New
	Percentage increase on actual hourly rate of pay, excluding allowances, of which the employee was in receipt on 30 June 2005	Amount per hour	Minimum hourly wage rates
Class of work	%	CPH	R
[Schedule 4 (a) (iv)]			
(1) Forklift driving of power-operated forklift controlled from on board by the operator (job grade F)	6,53	109	17,74
(2) Driving of a load-carrying or hauling vehicle which requires a code 08 light motor vehicle licence to be held by the driver (job grade F)	6,40	113	18,73
(3) Driving of load-carrying or hauling vehicle which requires a code 10 heavy motor vehicle licence or a code 11 extra heavy motor vehicle licence to be held by the driver (job grade DD)	6,13	121	20,95
(4) Driving of a load-carrying or hauling vehicle which requires a code 13 or 14 heavy articulated motor vehicle licence to be held by the driver (job grade C)	5,87	131	23,56

(c) WAGE RATES WITH SPECIFIC APPLICATION TO THE OPERATIONS LISTED HEREIN

Class of work	GUARANTEED PERSONAL INCREASE (To be the greater of the amounts calculated in terms of Column A or reflected in Column B)		
	A	B	New
	Percentage increase on actual hourly rate of pay, excluding allowances, of which the employee was in receipt on 30 June 2005	Amount per hour	Minimum hourly wage rates
Class of work	%	CPH	R
Schedule G			
(1) Learners			
Rate D Operation 1			
First three months of experience (Rate D, less 10%).....	6%	116	20,55
Second three months of experience (Rate D, less 5%)	6%	122	21,69
Thereafter Rate D	6%	129	22,83
Provided that—			
(i) No employee may be engaged upon incentive bonus work during the learnership period;			

Class of work	GUARANTEED PERSONAL INCREASE (To be the greater of the amounts calculated in terms of Column A or reflected in Column B)		
	A	B	New
	Percentage increase on actual hourly rate of pay, excluding allowances, of which the employee was in receipt on 30 June 2005	Amount per hour	Minimum hourly wage rates
Class of work	%	CPH	R
(ii) an employer who wishes to train an employee for any of the classes of work for which no learnership or probationary period is provided may do so only with the prior approval of the Council, which shall prescribe the conditions under which permission for such employment is granted.			
Vitreous enamelling			
Operation 1 (a)			
First duster (Rate B).....	5,73	134	24,73
Operation 1 (b)			
Second duster (Rate D)	6,00	129	22,83
Section (d)			
Structural Engineering Wage Categories			
Category 5	5,20	153	30,94
Category 4	5,52	146	27,88
Category 3	5,84	131	23,68
Category 2	6,16	111	19,19
Category 1	6,80	101	15,82
Category 1 (a)	6,80	0,83	13,05
Note: The wage rates in respect of Annexure H, 'Special Provisions Limited to Construction Sites' shall apply.			

Class of work	GUARANTEED PERSONAL INCREASE (To be the greater of the amounts calculated in terms of Column A or reflected in Column B)		
	A	B	New
	Percentage increase on actual hourly rate of pay, excluding allowances, of which the employee was in receipt on 30 June 2005	Amount per hour	Minimum hourly wage rates
Class of work	%	CPH	R
(2) DIVISION D/4			
Rate B Operation 1			
First six months of experience (Rate F)	6,53	109	17,74
Second six months of experience (Rate DDD)	6,27	117	19,82
Third six months of experience (Rate D)	6,00	129	22,83
Fourth six months of experience (Rate C)	5,87	131	23,56
Thereafter Rate B	5,73	134	24,73

Class of work	GUARANTEED PERSONAL INCREASE (To be the greater of the amounts calculated in terms of Column A or reflected in Column B)		
	A	B	New
	Percentage increase on actual hourly rate of pay, excluding allowances, of which the employee was in receipt on 30 June 2005	Amount per hour	Minimum hourly wage rates
Class of work	%	CPH	R
(3) DIVISION D/12			
Learnership periods and rates of pay therefor:			
Rate B—Newcomers			
First two months of experience (Rate DD)	6,13	121	20,95
Second two months of experience (Rate D)	6,00	129	22,83
Third two months of experience (Rate C)	5,87	131	23,56
Thereafter Rate B	5,73	134	24,73
Rate C—Newcomers			
First two months of experience (Rate DD)	6,13	121	20,95
Second two months of experience (Rate D)	6,00	129	22,83
Thereafter Rate C	5,87	131	23,56
Rate D—Newcomers			
First two months of experience (Rate DD)	6,13	121	20,95
Thereafter Rate D	6,00	129	22,83
(4) DIVISION D/19			
Section (f)			
Rate A Operation No. 1			
First year of experience (Rate AA-start)	5,47	143	27,65
Second year of experience (Rate AA)	5,33	148	29,24
Thereafter Rate A1	5,20	153	30,94
Class of work	GUARANTEED PERSONAL INCREASE (To be the greater of the amounts calculated in terms of Column A or reflected in Column B)		
	A	B	New
	Percentage increase on actual hourly rate of pay, excluding allowances, of which the employee was in receipt on 30 June 2005	Amount per hour	Minimum hourly wage rates
Class of work	%	CPH	R
(5) Division D/22			
Section B			
Operation No. 1 (Rate D)	6,00	129	22,83
Section (c)			
Operations No. 1 to No. 5 (Rate D)	6,00	129	22,83

	GUARANTEED PERSONAL INCREASE (To be the greater of the amounts calculated in terms of Column A or reflected in Column B)		
	A	B	New
	Percentage increase on actual hourly rate of pay, excluding allowances, of which the employee was in receipt on 30 June 2005	Amount per hour	Minimum hourly wage rates
Operations No. 6 to No. 8 (Rate DDD)	6,27	117	19,82
Operations No. 9 to 21 (Rate G)	6,67	105	16,74
Operations No 22 to No. 33 (Rate H).....	6,80	101	15,82
(6) Division D/23			
Training periods:			
Newcomers to Rate DDD			
First four months of experience (Rate F)	6,53	109	17,74
Thereafter Rate DDD	6,27	117	19,82
Newcomers to Rate E:			
First four months of experience (Rate H)	6,80	101	15,82
Thereafter Rate E	6,40	113	18,73
(7) Division D/24			
Rate Operation No. 1			
First three months of experience (Rate D, less 5%)	6,00	122	21,69
Thereafter Rate D.....	6,00	129	22,83
(8) Division E/2			
Section (b)			
First twelve months of experience			
Rate AA—start.....	5,47	143	27,65
Second twelve months of experience (Rate AA).....	5,33	148	29,24
Thereafter Rate A1	5,20	153	30,94

(d) WAGE RATES APPLICABLE TO OPERATIONS IN SCHEDULE F ONLY

	GUARANTEED PERSONAL INCREASE (To be the greater of the amounts calculated in terms of Column A or reflected in Column B)		
	A	B	New
	Percentage increase on actual hourly rate of pay, excluding allowances, of which the employee was in receipt on 30 June 2005	Amount per hour	Minimum hourly wage rates
Class of work	%	CPH	R
Group Z.....	5,20	153	30,94
Group Y.....	5,36	123	24,13
Group IX.....	5,52	119	22,69

	GUARANTEED PERSONAL INCREASE (To be the greater of the amounts calculated in terms of Column A or reflected in Column B)		
	A	B	New
	Percentage increase on actual hourly rate of pay, excluding allowances, of which the employee was in receipt on 30 June 2005	Amount per hour	Minimum hourly wage rates
Group VIII.....	5,68	118	21,91
Group VII.....	5,84	116	21,04
Group VI.....	6,00	115	20,24
Group V.....	6,16	113	19,42
Group IV.....	6,32	111	18,62
Group III.....	6,48	110	18,06
Group II.....	6,64	108	17,37
Group I.....	6,80	107	16,78

(e) WAGE RATES APPLICABLE TO APPRENTICES ONLY

	GUARANTEED PERSONAL INCREASE (To be the greater of the amounts calculated in terms of Column A or reflected in Column B)		
	A	B	New
	Percentage increase on actual hourly rate of pay, excluding allowances, of which the employee was in receipt on 30 June 2005	Amount per hour	Minimum hourly wage rates
Class of work	%	CPH	R
First year.....	5,20	30	611
Second year.....	5,20	33	674
Third year.....	5,20	40	804
Fourth year.....	5,20	59	1 190
The hourly rate of all apprentices for the purposes of calculating overtime shall be the weekly wage paid, divided by 40			

(f) WAGE RATES APPLICABLE TO OPERATIONS IN DIVISION D/7 ONLY

	GUARANTEED PERSONAL INCREASE (To be the greater of the amounts calculated in terms of Column A or reflected in Column B)		
	A	B	New
	Percentage increase on actual hourly rate of pay, excluding allowances, of which the employee was in receipt on 30 June 2005	Amount per hour	Minimum hourly wage rates
Class of work	%	CPH	R
B.....	5,94	0,90	16,04
C.....	6,21	0,90	15,38
D.....	6,36	0,90	15,04
DDD.....	6,41	0,90	14,94
E.....	6,41	0,90	14,93
F.....	6,53	0,87	14,19
F.....	6,67	0,84	13,40
H.....	6,80	0,76	11,88

B. For the period 1 July 2006 to 30 June 2007

The parties have agreed that the wage increase effective from 1 July 2006 shall be calculated on the following basis:

- The CPIX will serve as the basis for the percentage wage increases. This will be the published Statistics S.A. year-on-year percentage increase in the CPIX for all income groups for the period April 2005 to April 2006.
- Plus a 1% wage spread increase differential ranging from 1% at Rate H to 0% at Rate A.
- Plus an additional 1% for all grades.
- Should the CPIX figure referred to in (a) above be less than 4,5% then a figure of 4,5% will be used as the CPIX. Should the CPIX figure be 4,5% or above then the CPIX figure will be used."

14. ANNEXURE A: SECURITY OF EMPLOYMENT AND SEVERANCE PAY**1. Retrenchments and/or redundancies**

- Substitute the following for item 2.4 "Notification of termination of employment".

"2.4 Notification of termination of employment

When the consultation process has been concluded, the employer shall give notice of termination to those employees selected for retrenchment on the following basis:

- One week, if the employee has been employed by the same employer for six months or less; or
- two weeks, if the employee has been employed by the same employer for more than six months; or
- four weeks, if the employee has been employed by the same employer for more than a year."

- Substitute the following for item 3.2.3.1:

"3.2.3.1 the employer shall give notice of termination of those employees selected for retrenchment on the following basis:

- One week, if the employee has been employed by the same employer for six months or less; or
- two weeks, if the employee has been employed by the same employer for more than six months; or
- four weeks, if the employee has been employed by the same employer for more than a year."

- (c) Substitute the following for item 3.4.3.1:

"3.4.3.1 the employer shall give notice of termination to those employees selected for retrenchment on the following basis:

- One week, if the employee has been employed by the same employer for six months or less; or
- two weeks, if the employee has been employed by the same employer for more than six months; or
- four weeks, if the employee has been employed by the same employer for more than a year."

- (d) Substitute the following for the existing item 2 "Lay-offs":

"2. Lay-offs

For the purposes of this clause, "lay-off" means the temporary suspension, without pay, of employment for a minimum of five full consecutive shifts owing to a reduction in the volume of work in an establishment or section of an establishment or owing to any other economic reason or any other contingency or circumstance beyond the control of the employer.

The following procedures and conditions shall apply in respect of lay-off provisions:

- (a) An employer shall give the Regional Office, affected employees and affected party trade unions 14 clear working days' notice of the intention to lay-off employees.
- (b) The notification of lay-off shall provide the names of the affected employees, the reasons for the lay-off and the estimated duration of the lay-off.
- (c) The employer shall, during the 14 day notification period, consult with the representatives of the trade unions and/or elected shop stewards on the reasons for the lay-off and the manner in which it will operate.
- (d) The employer shall give the affected employees a minimum of five shifts' notice of the intention to lay-off. This notice shall include the specific date on which the employees are to resume work.
- (e) The employer shall not be required to pay wages to the employees on lay-off: Provided that where the employer believes resumption of work can be affected and expressly instructs the employees to present themselves for employment on a particular day, they shall receive not less than four hours' work or pay in lieu thereof, in respect of such day.
- (f) Lay-off may not continue beyond a period of eight weeks unless otherwise agreed between the employer and representatives of the party trade unions representing the affected employees or such other representatives of the affected employees.
- (g) Periods not worked by an employee whilst on lay-off shall count as shifts actually worked and these employees shall be credited with the full shifts for an ordinary week, whilst on the lay-off, for purposes of paid leave and leave enhancement pay up to an eight-week maximum in any calendar year.
- (h) Employees on lay-off may engage in any other employment for remuneration during the duration of the lay-off.
- (i) Should an employee on lay-off not return to employment within three working days of the due date. The employee shall be deemed to have terminated employment with the employer, unless the absence is condoned by the employer.
- (j) The provisions of subclause (8) (i) (a) of this Agreement shall *mutatis mutandis* apply to the payment of earnings in respect of lay-off."

15. ANNEXURE B: FIVE-GRADE JOB AND WAGE STRUCTURE

Substitute the following for item 8:

"8. For those establishments that have implemented or intend to implement the new job and wage system, the following minimum wage shall apply for the new five-grade structure. For those establishments that have implemented the five-grade job and wage structure, the following increases shall apply on the same terms as set out in clause 1 of Part II of this Agreement.

The actual wage structure, including the benchmark figure for artisans, shall be agreed at company level depending upon the nature and extent of multi-skilling, multi-tasking, broad banding and employee flexibility agreed between the affected employer and trade union(s):

Grade	Current minimum wage rate	Increase on Actuals and scheduled wage rates	Increase on scheduled wage rate	New minimum wage rates
5	29,41	5,20	1,53	30,94
4	25,32	5,20	1,32	26,64
3	21,81	5,20	1,13	22,94
2	18,77	5,20	0,98	19,75
1	16,17	5,20	0,84	17,01
Whichever is the greater personal increase				

Note: These amounts will be increased in line with the increases to be agreed in the 2006/2007 and subsequent annual Main Agreement negotiations.

The new five-grade wage structure will be phased-in in equal increments, over a maximum period of five years. Individual establishments may agree to phase the new structure in over a shorter period.”

16. ANNEXURE H: SPECIAL PROVISIONS LIMITED TO CONSTRUCTION SITES

Substitute the following wage schedule for the schedule given in item 7 of the Annexure:

“MINIMUM WAGE SCHEDULE APPLICABLE ON CONSTRUCTION SITES

Category	GUARANTEED PERSONAL INCREASE (To be the greater of the amounts calculated in in terms of Column A or reflected in Column B)		New
	A	B	
	Percentage increase on actual hourly rate of pay, excluding allowances, of which the employee was in receipt on 30 June 2005	Amount per hour	Minimum hourly wage rates
	%	CPH	Site rate to be paid after 4 months continued employment with an individual contractor
5.....	5,20	153	30,94
4.....	5,55	147	27,89
3.....	5,90	132	23,69
2.....	6,67	0,77	12,34
1.....	6,80	0,62	9,68
1(a).....	6,80	0,56	8,75

Signed at Johannesburg, for and on behalf of the parties, this 14 July 2005.

D. CARSON

Member

M. LANDMAN

Member

A. SMIT

Chief Executive Officer

No. R. 872

9 September 2005

LABOUR RELATIONS ACT, 1995

**BARGAINING COUNCIL FOR THE FURNITURE MANUFACTURING INDUSTRY OF THE EASTERN CAPE:
EXTENSION OF AMENDMENT OF COLLECTIVE AGREEMENT TO NON-PARTIES**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of section 32 (2) of the Labour Relations Act, 1995, declare that the collective amending agreement which appears in the Schedule hereto, which was concluded in the Bargaining Council for the Furniture Manufacturing Industry of the Eastern Cape and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the agreement, shall be binding on the other employers and employees in that Industry, with effect from — and from the period ending 31 December 2005.

M.M.S. MDLADLANA

Minister of Labour

No. R. 872

9 September 2005

WET OP ARBEIDSVIRHOUDINGE, 1995

**BEDINGINGSRAAD VIR DIE MEUBELNYWERHEID OOSTELIKE KAAP: UITBREIDING
VAN WYSIGING- VAN KOLLEKTIEWE OOREENKOMS NA NIE-PARTYE**

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, verklaar hierby kragtens artikel 32 (2) van die Wet op Arbeidsverhoudinge, 1995, dat die Kollektiewe Wysigingsooreenkoms wat in die Engelse Bylae hiervan verskyn, en wat in die Bedingingsraad vir die Meubelnywerheid Oostelike Kaap, aangegaan is en kragtens artikel 31 van die Wet op Arbeidsverhoudinge, 1995, bindend is op die partye wat die Wysigingsooreenkoms aangegaan het, bindend vir die ander werkgewers en werknemers in daardie Bedryf, met ingang van — en vir die tydperk wat op 31 Desember 2005 eindig.

M.M.S. MDLADLANA

Minister van Arbeid

SCHEDULE**BARGAINING COUNCIL FOR THE FURNITURE MANUFACTURING INDUSTRY OF THE EASTERN CAPE
MAIN COLLECTIVE AGREEMENT**

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

Midland Furniture Manufacturers's Association

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

National Union of Furniture and Allied Workers of South Africa

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

being the parties to the Bargaining Council for the Furniture Manufacturing Industry of the Eastern Cape Province.

PART 1**PROVISIONS APPLICABLE TO THE INDUSTRY THROUGHOUT THE AREA
COVERED BY THE AGREEMENT UNLESS THE CONTRARY IS STATED****1. SCOPE OF APPLICATION OF AGREEMENT**

1.1 The terms of this Agreement shall be observed in Furniture Manufacturing Industry—

- (a) by all employers who are members of the employers' organization and by all employees who are members of the trade union and who are engaged or employed respectively in the said Industry;
- (b) within the Magisterial Districts of Port Elizabeth, Cradock, Graaff-Reinet, Humansdorp, Hankey, Somerset East, Aberdeen, Adelaide, Albany, Alexandria, Bathurst, Bedford, Colesberg, Hanover, Jansenville, Joubertina, Kirkwood, Hofmeyr, Middelburg (C.P.), Murraysburg, Noupoot, Pearston, Richmond (C.P.), (including that portion of the Magisterial District of Victoria West which, prior to 29 January 1962 (Government Notice No. 165 of 29 January 1982), fell within the Magisterial District of Richmond (C.P.), Steytleville, Steynsburg, Uniondale, Uitenhage, Venterstad and Willowmore.

1.2 (a) The purpose of the Agreement shall be to recognize the level of skills of every employee, to provide opportunities for his further progress and to establish levels of remuneration and other conditions of employment for employees without in any way restricting entrepreneurial initiative and employment opportunities.

(b) 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 and the Council may grant such exemption.

1.3 Clauses 1.1 (a), 1.2 (b) and 2 of Part 1 of the 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

2.1 This Agreement shall come into operation—

- (a) in respect of the parties to this Agreement, on the date of signature;
- (b) in respect of non-parties 10 days after the date of publication in the *Gazette*.

2.2 This Agreement shall remain in force until 31 December 2005.

3. CLAUSE 8. 6: HOLIDAY FUND

Substitute Clause 8. 6 with the following:

8.6.2 The percentage of actual remuneration referred to in 8.6.1 shall be paid as follows:

in 8.6.1 shall be paid as follows:

- 12,5% of actual remuneration for 39 hours worked in terms of the industry Agreement or where the Employee has worked less than 39 hours on account of illness and a Medical Certificate has been produced or permission for absence has been granted to the Employee.
- 7% of actual remuneration if the Employee has worked less than 39 hours in the week due to late coming and absence without prior permission from the Employer.
- 5% of actual remuneration if the Employee has worked for 32 hours and less in the week as a result of being AWOL as defined in sub-clause 8.6.16.
- 5% of actual remuneration for any hours worked between 40 and 54 hours that are paid at overtime rates. (starting at 40 and including 54th hour).
- 10% of actual remuneration for any hours in the week in excess of 54.

4. CLAUSE 25: RELIGIOUS HOLIDAYS

Kindly insert this "new clause" in the Furniture Bargaining Council Collective Agreement.

Religious holidays falling during the annual shutdown may be exchanged subject to mutual agreement.

4. CLAUSE 26: AGENCY SHOP

Kindly insert this "new clause" in the Furniture Bargaining Council Collective Agreement.

(1) For the purposes of this clause—

- (a) "agency shop" means the compulsory deduction of agency fees from the wages of Employees who are not members of the trade union party to this Agreement;
- (b) "representative trade union" means a registered trade union, or two or more registered trade unions acting jointly, whose member are a majority of the Employees employed—
 - (i) by an Employer in a workplace; or
 - (ii) by the members of an employers' organisation in a sector and area in respect of which the agency shop agreement applies.

(2) (a) An Employer must deduct an agreed agency fee from the wages of Employees identified in the Collective Agreement who are not members of the representative trade union but are eligible for membership thereof.

(b) The agency shop agreement is binding on Employees who are not members of the representative trade union. Employees working less than 3 working days in a pay cycle will be exempted.

(3) (a) The agency fee must be equivalent to—

- (i) "the amount of the subscription payable by the members of the representative trade union;
- (ii) if the subscription of the representative trade union is calculated as a percentage of an Employees salary, that percentage; or
- (iii) if there are two or more registered trade unions party to the Agreement, the highest amount of the subscription that would apply to an Employee.

(b) Any agency fee monies deducted by the Employer from any non-union Employees shall be deposited into a separate account administered by the representative trade union by not later than the tenth day of the month following the month during which the deductions are made.

- (c) The payment must be accompanied by a schedule—
 - (i) stating the date of the deduction and the total of the amounts deducted; and
 - (ii) listing the name and the amount deducted in respect of each Employee.
- (d) The agency fee may be used only for expenditure of the trade union for the purposes of collective bargaining in the Council but may not be—
 - (i) paid to a political party as an affiliation fee or
 - (ii) contributed in cash or kind to a political party or a person standing for election to any political office; or
 - (iii) used for any expenditure that does not advance or protect the socio-economic interests of Employees.
- (4) (a) Despite the provisions of any law or contract, an employer may deduct the agreed agency fee from the wages of an Employee without the employees authorisation.
- (c) Despite subclause 3 (b), a conscientious objector may request the employer to pay the amount deducted from that employees wages into a fund administered by the Department of Labour.
- (5) The provisions of section 98 and 100 (b) and (c) apply, read with the changes required by the context, to the separate account referred to in subsection 3 (b).
- (6) In the registrar's office any person may inspect the auditors report, in so far as it relates to an account referred to in subclause 4 (b).
- (7) The registrar must provide a certified copy of, or extract from, any of the documents referred to in subclause (6) to any person who has paid the prescribed fees.
- (8) An employer or employer's organisation that alleges that a trade union is no longer a representative trade union in terms of subclause 1 (b) must give the trade union written notice of the allegation, and must allow the trade union 90 days from the date of the notice to establish that it is a representative trade union.
- (9) Any person may lodge a complaint or refer a dispute in writing about the Application, interpretation or enforcement of this agency fee to the Secretary of the Council for resolution in terms of this Agreement.
- (10) If, within the 90 day period, the trade union fails to establish that it is a representative trade union, the Employer must give the trade union and the Employees covered by the agency shop agreement 30 days notice of termination, after which the agreement will terminate.
- (11) If an agency shop agreement is terminated, the provisions of subclause (3) (b) and (5) apply until the money in the separate account is spent.

5. PART II: WAGES

1. CLAUSE 1. GRADE 1: JOURNEYMAN

- (1) Substitute the figure "12,51" with the figure "17,22".
- (2) Substitute the figure "11,48" with the figure "16,05".

2. CLAUSE 2. GRADE 2A + B + C + D: OPERATORS

- (1) Substitute the figure "10,66" with the figure "14,82".
- (2) Substitute the figure "9,79" with the figure "13,66".
- (3) Substitute the figure "9,76" with the figure "13,65".
- (4) Substitute the figure "8,99" with the figure "12,50".
- (5) Substitute the figure "9,70" with the figure "13,57".
- (6) Substitute the figure "8,89" with the figure "12,49".
- (7) Substitute the figure "9,12" with the figure "12,66".
- (8) Substitute the figure "8,39" with the figure "11,38".

3. CLAUSE 3. GRADE 3: GENERAL ASSISTANTS

- (1) Substitute the figure "9,12" with the figure "12,66".
- (2) Substitute the figure "8,39" with the figure "11,83".
- (3) Substitute the figure "6,85" with the figure "9,70".
- (4) Substitute the figure "6,30" with the figure "9,10".

4. CLAUSE 4. GRADE 4: NEW ENTRANTS

- (1) Substitute subclauses and the figure "4,19" and "4,07" with the figure "5,92". (1st 3 months in the grade for employees employed before 1 August 2004).

- (2) Substitute subclauses and the figure "4,07" and "4,57" in Area B with the following:
- (a) Operator 2B "9,15".
 - (b) Hand sander 2D "8,03".
 - (c) General Assistant 3A "8,19".
 - (d) General Assistant 3B "6,28".

5. CLAUSE 5: CASUALS

- (1) Substitute the figure "3,81" with the figure "5,64".
- (2) Substitute the figure "3,71" with the figure "5,48".

6. CLAUSE 6: NEW ENTRANT

Kindly insert this "new clause" in the Furniture Bargaining Council Collective Agreement.

- (1) Employees employed after 1 August 2004 in Area A "5,92".
- (2) Employees employed after 1 August 2004 in Area B:
 - (a) Operator 2B "9,15".
 - (b) Hand sander 2D "8,03".
 - (c) General Assistant 3A "8,19".
 - (d) General Assistant 3B "6,28".

Signed at Port Elizabeth, on behalf of the parties, this 11th day of March 2005.

P GERBER

Chairperson of the Council

D GOLDMAN

National Union of Furniture and Allied Workers' of South Africa

T HEUGH

Secretary of the Council

No. R. 873

9 September 2005

LABOUR RELATIONS ACT, 1995

CANCELLATION OF GOVERNMENT NOTICE

ENTERTAINMENT INDUSTRY OF SOUTH AFRICA: ADMINISTRATION AND EXPENSES COLLECTIVE AGREEMENT

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of section 32 (7) of the Labour Relations Act, 1995, cancel Government Notice R. 1562 of 31 October 2003 with effect from.

M.M.S. MDLADLANA

Minister of Labour

No. R. 873

9 September 2005

WET OP ARBEIDSVARHOUDINGE, 1995

INTREKKING VAN GOEWERMENSKENNISGEWING

VERMAAKLIKHEIDSBEDRYF VAN SUID-AFRIKA: ADMINISTRASIE EN UITGAWES KOLLEKTIEWE OOREENKOMS

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, trek hierby kragtens artikel 32 (7) van die Wet op Arbeidsverhoudinge, 1995, Goewermenskennisgewing No. R. 1562 van 31 Oktober 2003 in, met ingang van.

M.M.S. MDLADLANA

Minister van Arbeid

No. R. 874

9 September 2005

LABOUR RELATIONS ACT, 1995

BARGAINING COUNCIL FOR THE ENTERTAINMENT INDUSTRY OF SOUTH AFRICA: EXTENSION OF ADMINISTRATION AND EXPENSES RE-ENACTING COLLECTIVE AGREEMENT

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of section 32 (2) of the Labour Relations Act, 1995, declare that the Collective Agreement which appears in the Schedule hereto, which was concluded in the Bargaining Council for the Entertainment Industry of South Africa, 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 — and for the period ending 30 September 2006.

M.M.S. MDLADLANA

Minister of Labour

No. R. 874

9 September 2005

WET OP ARBEIDSVERHOUDINGE, 1995

BEDINGINGSRAAD VIR DIE VERMAAKLIKHEIDSBEDRYF VAN SUID-AFRIKA: UITBREIDING VAN ADMINISTRASIE EN UITGAWES HERBEKRAFTIGINGS KOLLEKTIEWE OOREENKOMS NA NIE-PARTYE

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, verklaar hierby kragtens artikel 32 (2) van die Wet op Arbeidsverhoudinge, 1995, dat die Kollektiewe Ooreenkoms wat in die Bylae hiervan verskyn, en wat in die Bedingingsraad vir die Vermaaklikheidsbedryf van Suid-Afrika 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 — en vir die tydperk wat op 30 September 2006 eindig.

M.M.S. MDLADLANA

Minister van Arbeid

SCHEDULE

**BARGAINING COUNCIL FOR THE ENTERTAINMENT INDUSTRY OF SOUTH AFRICA
ADMINISTRATION AND EXPENSES RE-ENACTING COLLECTIVE AGREEMENT**

PART A: APPLICATION**1. PARTIES**

In accordance with the provisions of the Labour Relations Act, No. 66 of 1995, made and entered into by and between

Employers' Association for the Entertainment and other Industries of South Africa

Federated Employers Organisation of South Africa

General Employers and Management Association

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

Entertainment, Catering, Commercial and Allied Workers Union of South Africa

South African Commercial Catering and Allied Workers Union

Performing Arts Workers' Equity

South African Equity Workers Association

(hereinafter referred to as the "employees" or the "trade unions"), of the other part, being the parties to the Bargaining Council for the Entertainment Industry of South Africa, to re-enact the Agreement published under Government Notice No. R. 178 of 12 February 1999 as extended by Government notice No. R. 541 of 2 June 2000, R. 783 of 11 August 2000 and R. 1562 of 31 October 2003.

2. SCOPE OF APPLICATION

(1) This Agreement shall be observed in the Entertainment Industry—

- (a) by all employer's who are members of the employer's organisations and by all employees who are members of the trade unions; and
- (b) in the Republic of South Africa.

(2) The terms of this Agreement shall not apply to—

- (a) non-parties in respect of Clauses 1 (1) (a), 2, 8 (2), 30 (2) and (3);

- (b) members of the Commercial Producers Association who were members of the Commercial Producers Association as at 12 February 1999 and the employees of such members;
- (c) all employers and employees in the Music Industry; and
- (d) freelancers.

3. PERIOD OF APPLICATION

3.1 This Agreement shall commence application—

- (a) in respect of the parties to this Agreement, on the date of signature;
- (b) in respect of non-parties, as determined by the Minister.

3.2 This Agreement shall remain in existence until 30 September 2006, unless amended.

4. SPECIAL PROVISIONS

The provisions contained in clauses 8 (2) and 30 (2) and (3) of the Agreement published under Government Notice No. R. 178 of 12 February 1999, as extended by Government Notice Nos. R. 541 of 2 June 2000, R. 783 of 11 August 2000 and R. 1562 of 31 October 2003 (hereinafter referred as the "Former Agreement"), as further extended, amended or re-enacted from time to time, shall apply to employers' and employees.

5. GENERAL PROVISIONS

The provisions contained in clauses 3 to 8 (1) and 9 to 30 (1) of the Former Agreement (as further extended, amended and re-enacted from time to time) shall apply to employers and employees.

Attestation.

G VAN DEVENTER

(Chairman)

M MJEZA

(Vice Chairman)

JJ ALBERTS

(Secretary)

No. R. 879

9 September 2005

BASIC CONDITIONS OF EMPLOYMENT ACT, 75 OF 1997**CORRECTION NOTICE: SECTORAL DETERMINATION 6: PRIVATE
SECURITY SECTOR, SOUTH AFRICA**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of Section 56(3)(b) of the Basic Conditions of Employment Act, 1997, effect corrections to the Sectoral Determination 6: private security sector in South Africa, which appears in the schedule hereto and fix the 2nd Monday after publication as the date from which the provisions of the said Sectoral Determination shall be binding.



**M M S MDLADLANA, MP
MINISTER OF LABOUR**

SECTORAL DETERMINATION : PRIVATE SECURITY SECTOR**TABLE OF CONTENTS**

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1. AREA AND SCOPE OF APPLICATION

- (1) This determination shall apply in the Republic of South Africa to every employer in the Private Security Sector as defined in sub clause (2), and to all employees in that sector, except those employers and employees referred to in sub clause (3).
- (2) **"Private Security Sector"** means the sector in which employers and employees are associated for the purpose of guarding or protecting fixed property, premises, goods, persons or employees, including monitoring and responding to alarms at premises which are guarded by persons or by electronic means.
- (3) The provisions of this determination shall not apply -
 - (a) to a manager as defined in sub clause 2(36); or
 - (b) to any employer or employee who is subject an agreement of a bargaining council in terms the Labour Relations Act, 1995.
- (4) For the purposes of determining the wage rate applicable to an employee, the area where the employee performs the employee's duties shall be the area contemplated in sub clause (1), irrespective of whether or not the employer has an establishment in that area or not.
- (5) Subject to the provisions of the National Keypoint Act, 1980, this determination shall also apply to employers and employees who provide security services at National Key Points.

2. DEFINITIONS

For the purposes of this determination, unless the context otherwise indicates, any expression used therein which is defined in the Basic Conditions of Employment Act, No 75 of 1997, has the same meaning as in that Act and an employee shall be deemed to be in that class in which the employee is wholly or mainly engaged.

- (1) **"Act"** means the Basic Conditions of Employment Act, 1997 (Act No.75 of 1997);
- (2) **"actuary"** means the actuary to the fund appointed by the board in terms of the rules;
- (3) **"administrator"** means an approved administrator of the fund in terms of section 13B of the Pension Funds Act, as amended from time to time and who has been appointed by the trustees of the Fund in terms of the Pension Funds Act and the Fund Rules to administer the Fund;
- (4) **"area"** includes any number of areas, whether or not closest;
- (5) **"artisan"** means an employee who has completed or is deemed to have completed a contract of apprenticeship in a trade designated or deemed to have been designated in terms of the Manpower Training Act, 1981, or who holds a certificate issued or deemed to have been issued to the employee by the Registrar of Manpower Training and conferring Artisan status on the employee in terms of that Act, and any other employee engaged in work normally performed by an Artisan except where specifically otherwise provided in this determination;
- (6) **"basic condition of employment"** means a provision of the Basic Conditions of Employment Act, No 75 of 1997.
- (7) **"benefits"** shall mean the death, disability and funeral benefits provided to members of the Fund in terms of the Fund Rules;
- (8) **"board"** means the board of trustees of the fund appointed or elected in accordance with its rules and the Pension Funds Act;
- (9) **"cargo security officer"** means an employee who guards cargo on a ship;
- (10) **"casual employee"** means an employee without a fixed contract of employment who works not more than 24 hours in any week.
- (11) **"child"** means a person who is under 18 years of age.
- (12) **"clerical assistant"** means an employee who is engaged in any one or more of the following duties :

- (a) Adding or subtracting, including making use of a machine;
 - (b) checking attendance registers or entering particulars in connection with employees who are absent or present or the time spent by employees on different tasks at establishments or places of employment;
 - (c) filing documents according to written instructions or a list, in any order;
 - (d) interpreting or translating languages;
 - (e) issuing passes or preparing certificates of service;
 - (f) issuing time cards;
 - (g) preparing wage or time cards;
 - (h) recording particulars of annual or sick leave;
 - (i) recording particulars in registers otherwise than by means of a typewriter or computer;
 - (j) recording the engagement, dismissal or resignation of employees, including any necessary entries in an employee's file or documents;
 - (k) transferring names and addresses from compiled documents to envelopes, labels or circulars otherwise than by means of a typewriter or computer;
- (12) **"clerk"** means an employee who is engaged in writing, typing or filing or in any other form of clerical work and includes a cashier, Storeman and a telephone switch-board operator, and who may make up money into specified amounts and place such money in envelopes or other containers, but does not include any other class of employee elsewhere defined in this clause, notwithstanding the fact that clerical work may form part of such employee's work;
- (13) **"contribution"** means the combined amount of the employer and employee contribution as per 24.2(1) payable monthly to the fund by each employer in the sector in respect of each of his/her employees whose conditions of employment are governed by the Sectoral Determination 6: Private Security Sector, South Africa who are members of the fund ;
- employee contribution means the amount of the employee's contribution as per 24.2(1) payable monthly to the fund by each employee whose conditions of employment are governed by the Sectoral Determination 6: Private Security Sector, South Africa who are members of the fund ;
- (14) **"controller (stock)"** means an employee who controls or checks the issuing or receiving of uniforms, overalls, protective clothing, batons, handcuffs, flashlights, firearms, ammunition or other equipment and who may keep the necessary records;
- (15) **"Control Centre Operator"** and **"Communication Centre Operator"** means a security officer who is utilised in an administrative capacity in a control centre or communication centre and who may be called upon to perform any or all of the duties of a clerk.
- (16) **"day"** means a period of 24 consecutive hours reckoned from the time such employee usually commences work and daily has a corresponding meaning;
- (17) **"driver"** means an employee, other than a Security officer, grade A, B or C, who drives a motor vehicle, and for the purposes of this definition the expression "drives a motor vehicle" includes all periods during which an employee drives, all time spent on work connected with the vehicle or the load, and all periods during which the employee is obliged to remain at the post in readiness to drive;
- (18) **"emergency work"** means work that is required to be done without delay owing to circumstances for which the employer could not reasonably have been expected to make provision and which cannot be performed by employees during their ordinary hours of work.
- (19) **"employee"** means any person who works for another person or who in any manner assists in carrying on or conducting the business of an employer; and who receives, or is entitled to receive, any remuneration; and **"employed"** and **"employment"** have a corresponding meaning, and which also includes -
- (a) in-house security officers, performing the duties as defined in sub clauses 2(41) to 2(46), who do not fall under the jurisdiction of any other wage determination, sectoral determination or bargaining council agreement; and
 - (b) those persons who qualify to be deemed as employees in terms of clause 16 of this determination.
- (20) **"employer"** means any person (including created entities, corporate or un-incorporated) other than a person who is exempted in terms of clause 1(2) of the determination, who employs or provides work for

any person in the Private Security Sector and remunerates him or permits any person in any manner whatsoever to assist him in the carrying on or conducting of his business and "employ" and "employment" shall have corresponding meanings.

- (21) **"establishment"** means the premises from which an employer conducts his business;
- (22) **"experience"** means, in relation to -
- (a) a clerk, the total period or periods of employment which an employee has had as a clerk in any trade or industry or in the service of a local authority or the State;
 - (b) a clerical assistant, the total period or periods of employment which an employee has had as a clerical assistant in any trade or industry or in the service of a local authority or the State;
- (23) **"Fund"** means the Private Security Sector Provident Fund established in terms of Government Notice 306 of 30 March 2001, which is governed by the Fund Rules and the Pension Funds Act;
- (24) **"Fund commencement date"** means 1 November 2002;
- (25) **"Fund Rules"** means the rules of the Fund, as amended by the trustees of the Fund from time to time and registered with the Registrar of Pension Funds in terms of the Pension Funds Act;
- (26) **"Fund Salary"** means the salary used for the calculation of employer and employee contributions to the fund and is calculated as follows:

$$A \times B \times 4.333$$

Where

A = employee's ordinary hourly equivalent rate of pay

B = the maximum number of ordinary hours an employee is permitted to work at the ordinary rate of pay as per Sectoral Determination 6 of 2001 or such lesser number of ordinary hours the employee works as may be agreed in writing between the employee and the employer or any reduced maximum ordinary hours an employee may work that may be legislated in terms of a Sectoral Determination or the Basic Conditions of Employment Act whichever is applicable.

- (27) **"general worker"** means an employee who is engaged in any one or more of the following duties:
- (a) Affixing postage stamps to letters, parcels or other articles;
 - (b) affixing rubber stamps or serial numbers where discretion is not required;
 - (c) assisting an Artisan by holding articles or tools or working with the artisan without making independent use of any tools;
 - (d) assisting on vehicles, otherwise than driving, guarding or repairing such vehicles, carrying, lifting, storing, moving, loading, unloading, opening or closing goods or parcels;
 - (e) cleaning or washing premises, doors, windows, equipment, tools, plant, machinery, furniture, vehicles, containers or other articles, and includes the polishing of floors, furniture or vehicles or the brushing of mats or the cleaning of mats by means of a machine;
 - (f) cooking rations or making tea or similar beverages for employees, including serving them, or making tea or other refreshments for the employer or the employer's guests, including the serving thereof;
 - (g) delivering or conveying messages, letters, goods or parcels on foot, or by any means excluding motor vehicles;
 - (h) feeding or tending animals;
 - (i) filling fuel tanks or filling or draining oil sumps;
 - (j) gardening;
 - (k) oiling or greasing vehicles, plant or machinery;
 - (l) opening or closing doors or windows;
 - (m) pushing or pulling vehicles otherwise than by means of mechanical equipment;
 - (n) removing refuse or ashes;
 - (o) removing, replacing, changing wheels, tyres or tubes, or repairing or pumping tyres or tubes;
 - (p) removing, topping up or replacing batteries;
 - (q) replacing towels, soap or toilet paper;
 - (r) stamping or stenciling containers or parcels where discretion is not required;

- (s) washing or ironing overalls, uniforms or protective clothing;
 - (t) whitewashing, cleaning or disinfecting kennels, stables, outbuildings or toilets;
- (28) **"goods"** means any movable property, but not limited to, money and other valuables belonging to or in the custody of the employer, that has to be guarded, protected or transported under guard;
- (29) **"gross vehicle mass"**, in relation to a motor vehicle, means the maximum mass of such vehicle and its load as specified by the manufacturer or, in the absence of such specification, as determined by the registering authority;
- (30) **"handyman"** means an employee, other than an apprentice or a trainee, who is engaged in making minor repairs or adjustments to machinery or equipment, and who may also effect minor repairs or renovations to buildings, but who does not do any work normally performed by an Artisan;
- (31) **"heavy motor vehicle"** means a motor vehicle the gross vehicle mass of which exceeds 9,000 kg;
- (32) **"hourly wage"** means an employee's hourly equivalent wage in respect of ordinary hours worked, as set out in clause 3 (1) (b), and in the case of a ship Security officer and a cargo Security officer it means the wage referred to in clause 3(1)(d);
- (33) **"law"** includes the common law;
- (34) **"light motor vehicle"** means a motor vehicle the gross vehicle mass of which does not exceed 3,500 kg;
- (35) **"local authority"** means any borough council, city council, municipal council, village management board, divisional council or any similar institution or body contemplated in section 84(1)(f) of the Provincial Government Act, 1961, or in any other parliamentary legislation;
- (36) **"manager"** means an employee who is charged by an employer with the overall supervision over, responsibility for and direction of the activities of an establishment or part of an establishment and the employees engaged therein, but does not include any employee in the same establishment who relieves or acts for a manager during the manager's absence;
- (37) **"medical practitioner"** means a person entitled to practice as a medical practitioner in terms of section 17 of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 50 of 1974).
- (38) **"member"** means an employee who, having been admitted to membership of the fund in accordance with the rules of the fund, has not ceased to be a member of the fund in terms of the rules;
- (39) **"midwife"** means a person registered or enrolled to practice as a midwife in terms of section 16 of the Nursing Act, 1978 (Act No. 50 of 1978).
- (40) **"medium motor vehicle"** means a motor vehicle the gross vehicle mass of which exceeds 3,500 kg but not 9,000 kg;
- (41) **"motor vehicle"** means a self-propelled vehicle used for the transportation of goods, persons or dogs, and includes a motor cycle and a motorised three-wheeler;
- (42) **"night work"** means work which is performed between the hours of 18:00 on one day and 06:00 the next day.
- (43) **"ordinary hours of work"** means the hours of work prescribed in clause 5(1), but if by agreement between an employer and employee the latter works a lesser number of ordinary hours, it means such shorter hours and excludes any hours paid at a premium for work performed on a Sunday or Public Holiday or in respect of overtime.
- (44) **"ordinary salary"** means the employee's salary excluding any premium for work on a Sunday or public holiday or in respect of overtime payable to an employee in terms of clause 3(1) in respect of ordinary hours worked;
- (45) **"overtime"** means that portion of any period worked by an employee in any week or on any day which is longer than the maximum permissible weekly or daily ordinary hours of work, as the case may be.

- (46) **"Pension Funds Act"** means the Pension Funds Act No.24 of 1956, as amended;
- (47) **"premises"** means any land and any building or structure above or below the surface of any land and includes any vehicle, aircraft or vessel;
- (48) **"public holiday"** means any day that is a public holidays in terms of the Public Holidays Act, 1994 (Act number 36 of 1994);
- (49) **"qualified"**, in relation to an employee referred to in sub clauses (9) and (10), means that the experience of an employee in the employee's class entitles the employee to the highest wage rate prescribed for that class of employee, and conversely, "unqualified" means that experience in the employee's class does not entitle the employee to such highest wage rate;
- (50) **"remuneration"** means any payment in money or kind, or both in money and kind, made or owing to any person in return for that person working for any other person, including the State, and **"remunerate"** has a corresponding meaning;
- (51) **"retirement fund act"** means the Pension Fund Act, 1956(Act No. 24 of 1956), and the regulations thereunder;
- (52) **"rules"** means the rules of the fund agreed by the board in accordance with the Retirement Fund Act;
- (53) **"security officer"** means a Security officer, grade A, B, C, D or E;
- (54) **"security officer, grade A"** means an employee who performs any one or more of the following duties:
- (a) Advising or reporting on any matter affecting guarding or protection services;
 - (b) assisting in the screening of candidates for employment;
 - (c) assuming responsibility for staff training;
 - (d) drawing money or cheques or taking possession of negotiable documents;
 - (e) drawing money at banks or similar institutions;
 - (f) guarding or protecting goods;
 - (g) supervising subordinate staff;
 - (h) who may drive a motor vehicle in the performance of any or all of the employee's duties; and
 - (i) who may be called upon to perform any or all of the duties of a security officer, grade B.
- (55) **"security officer, grade B"** means an employee who performs any one or more of the following duties, namely, supervising, controlling, instructing or training security officers, grade C, D or E or general workers and reporting thereon to an employer or any other specified person, and who may-
- (a) drive a motor vehicle in the performance of any or all of the employee's duties;
 - (b) be called upon to perform any or all of the duties of a security officer, grade C;
- (56) **"security officer, grade C"** means an employee who performs any one or more of the following duties:
- (a) supervising or controlling Security officers, grade D or E;
 - (b) driving a motor vehicle in the course of supervising or controlling Security officers grade D or E;
 - (c) driving a motor vehicle for the purpose of transporting Security officers; and
 - (d) who may be called upon to perform any or all of the duties of a security officer, grade D.
- (57) **"security officer, grade D"** means an employee who performs any one or more of the following duties:
- (a) controlling or reporting on the movement of persons or vehicles through checkpoints or gates;
 - (b) searching persons and, if necessary, restraining them;
 - (c) supervising or controlling Security officers, grade E;
 - (d) searching goods or vehicles; and
 - (e) who may be required to perform any or all of the duties of a security officer, grade E.
- (58) **"security officer, grade E"** means an employee, other than a Security officer, grade D, who performs any one or more of the following duties:
- (a) Guarding, protecting or patrolling premises or goods;
 - (b) Handling or controlling dogs in the performance of any or all of the duties referred to in (a);
- (59) **"spare and reliever"** means an employee:
- (a) who reports for duty at a specified place and time, and;
 - (b) who must remain at the specified place for the duration of that shift, or who is required to replace

any other employee who may be on scheduled time-off, annual leave or absent from duty, or who is required to perform duties at any place designated by the employer.

- (60) **"ship security officer"** means an employee who guards the entrance to or exit from a ship;
- (61) **"short time"** means a temporary reduction in the number of ordinary hours of work owing to a slackness of business in the trade, a breakdown of plant, machinery or equipment, or a breakdown or threatened breakdown of buildings;
- (62) **"store person"** means an employee, other than a controller (stock), who is in charge of incoming stock and who is responsible for receiving, storing, packing or unpacking stock in or for issuing stock from a store, warehouse or open stockyard;
- (63) **"Sunday work"** means any work performed where the relevant shift commences on a Sunday and where at least half of that shift is performed on that Sunday;
- (64) **"trustee" or "trustees"** means a trustee or the trustees or their alternates elected or appointed in terms of the Fund Rules;
- (65) **"week"** in relation to an employee, means the period of seven days within which the working week of that employee ordinarily falls.

3. REMUNERATION

(1) *Minimum wages :*

- (a) The ordinary salary which an employer shall pay employees shall be as specified in sub clauses (1)(b), (1)(c) and (1)(d).
 - (i) The hourly equivalents reflected in the table hereunder shall be used solely for the calculation of time worked in excess of the ordinary hours or for the deduction of monies from the ordinary salary for short time as defined or for any unauthorised absenteeism or any reduced ordinary hours of work as may be agreed between the employer and the employee in terms of clause 2(43).
- (b) Subject to (a)(1) above, an employer shall pay to each member of the under mentioned classes of employees, other than casual employees, cargo security officers or ship security officers, the minimum wages specified hereunder :

MONTHLY SALARY RATES AS FROM 16 JUNE 2005											
In the Magisterial Districts of	AREA 1		AREA 2		AREA 3		AREA 4		AREA 5		Maximum permissible working hours per week for each respective category of employee, subject to clause 5(2), with regard to averaging of working hours.
	Alberton, Bellville, Benoni, Boksburg, Brakpan, Camperdown, Chatsworth, Durban, Germiston, Goodwood, Inanda, Johannesburg, Kempton Park, Krugersdorp, Kuils River, Mitchell's Plain, Nigel, Oberholzer, Paarl, Pinetown, Port Elizabeth, Pretoria, Randburg, Randfontein, Roodepoort, Sasolburg, Simon's Town, Springs, The Cape, Uitenhage, Vanderbijlpark, Vereeniging, Westonaria, Wonderboom and Wynberg.		Bloemfontein, East London, Kimberley, Klerksdorp, Pietermaritzburg, Somerset West, Stellenbosch and Strand.		Odendaalsrus, Potchefstroom, Virginia, Welkom and Witbank.		Bethlehem, George, Hennenman, Highveld Ridge, King William's Town, Klip River, Knysna, Lower Tugela, Lower Umfolozi, Middelburg (Mpumalanga), Mossel Bay, Nelspruit, Newcastle, Oudtshoorn, Pietersburg, Port Shepstone, Potgietersrus, Rustenburg, Queenstown and Umzinto.		All other areas.		
	Monthly salary	Hourly equivalent	Monthly salary	Hourly equivalent	Monthly salary	Hourly equivalent	Monthly salary	Hourly equivalent	Monthly salary	Hourly equivalent	
Artisan	R 2,867	R 14.70	R 2,609	R 13.38	R 2,504	R 12.84	R 2,205	R 11.31	R 1,975	R 10.13	45
Clerical Assistant											45
During the first year of experience	R 1,429	R 7.33	R 1,310	R 6.72	R 1,184	R 6.07	R 1,115	R 5.72	R 999	R 5.12	
During the second year of experience	R 1,478	R 7.58	R 1,347	R 6.91	R 1,221	R 6.26	R 1,147	R 5.88	R 1,026	R 5.26	
Thereafter	R 1,523	R 7.81	R 1,400	R 7.18	R 1,273	R 6.53	R 1,184	R 6.07	R 1,057	R 5.42	45
Clerk											
During the first year of experience	R 1,560	R 8.00	R 1,433	R 7.35	R 1,314	R 6.74	R 1,215	R 6.23	R 1,084	R 5.56	
During the second year of experience	R 1,755	R 9.00	R 1,652	R 8.47	R 1,478	R 7.58	R 1,357	R 6.96	R 1,213	R 6.22	
During the third year of experience	R 1,931	R 9.90	R 1,767	R 9.06	R 1,656	R 8.49	R 1,494	R 7.66	R 1,336	R 6.85	45
Thereafter	R 2,122	R 10.88	R 1,938	R 9.94	R 1,815	R 9.31	R 1,630	R 8.36	R 1,458	R 7.48	
Control or Communication Centre Operator	As for relevant Security Officer grading										48
Controller	As for a Clerical Assistant										45
Driver of a -											45
Light motor vehicle	R 1,503	R 7.71	R 1,394	R 7.15	R 1,264	R 6.48	R 1,168	R 5.99	R 1,047	R 5.37	
Medium motor vehicle	R 1,722	R 8.83	R 1,589	R 8.15	R 1,461	R 7.49	R 1,336	R 6.85	R 1,197	R 6.14	
Heavy motor vehicle	R 1,856	R 9.52	R 1,716	R 8.80	R 1,587	R 8.14	R 1,431	R 7.34	R 1,285	R 6.59	45
General Worker											
During the first six months service with the same employer	R 1,170	R 6.00	R 1,074	R 5.51	R 963	R 4.94	R 915	R 4.69	R 817	R 4.19	
Thereafter	R 1,248	R 6.40	R 1,156	R 5.93	R 1,039	R 5.33	R 987	R 5.06	R 881	R 4.52	45
Handyman	R 1,665	R 8.54	R 1,542	R 7.91	R 1,420	R 7.28	R 1,297	R 6.65	R 1,159	R 5.94	
Security Officer											48
Grade A	R 2,733	R 13.14	R 2,496	R 12.00	R 2,267	R 10.90	R 2,107	R 10.13	R 1,891	R 9.09	
Grade B	R 2,286	R 10.99	R 2,082	R 10.01	R 1,878	R 9.03	R 1,743	R 8.38	R 1,564	R 7.52	
Grade C	R 1,756	R 8.44	R 1,618	R 7.78	R 1,460	R 7.02	R 1,371	R 6.59	R 1,221	R 5.87	
Grade D	R 1,587	R 7.63	R 1,450	R 6.97	R 1,319	R 6.34	R 1,231	R 5.92	R 1,108	R 5.33	
Grade E	R 1,500	R 7.21	R 1,377	R 6.62	R 1,244	R 5.98	R 1,171	R 5.63	R 1,050	R 5.05	45
Employees not elsewhere specified	R 1,445	R 7.41	R 1,328	R 6.81	R 1,199	R 6.15	R 1,140	R 5.85	R 1,016	R 5.21	

- (c) **Casual employees:** An employer shall pay a casual employee in respect of each hour or part of an hour (excluding overtime) worked by the employee on any day other than a paid holiday or a Sunday not less than the hourly wage prescribed in sub clause (1)(b) for an ordinary employee who in the same area performs the same class of work as the casual employee is required to do, plus 15 percent, or not less than the hourly wage or hourly equivalent of the wage actually being paid to the ordinary employee, whichever is the greater amount :

Provided that -

- (i) for the purposes of this paragraph the expression "the ordinary employee" means the employee who performs the particular class of work in the employer's full-time employ and who is being paid the lowest wage for that class of work;
- (ii) where the employer requires the casual employee -
 - (aa) to perform the work of a class of employee for whom wages on a rising scale are prescribed, the expression "hourly wage" shall mean the hourly wage prescribed for a qualified employee of that class;
 - (ab) to work for a period of less than four hours on any day, the employee shall be deemed to have worked four hours and remunerated accordingly.

- (d) **Ship security officers and cargo security officers:** A ship security officer and a cargo security officer shall be paid at least R4.83 for each hour or part of an hour of employment.

- (2) **Basis of contract:** For the purposes of this clause, the contract of employment of an employee, other than a casual employee, a ship security officer or a cargo security officer, shall be on a weekly basis.

- (3) **Differential wage :** An employer who requires or permits a member of one class of employee to perform for longer than one hour on any day, either in addition to the employee's own work or in substitution therefore, work of another class for which -

- (a) a wage higher than that of the employee's own class is prescribed in sub clause (1), shall pay to such employee in respect of that day not less than the daily wage calculated at the higher rate; or
- (b) a rising scale of wages terminating in a wage higher than that of the employee's own class, as prescribed in sub clause (1), shall pay to such employee in respect of that day not less than the daily wage calculated on the notch in the rising scale immediately above the wage which the employee was receiving for the employee's ordinary work: provided that -
 - (i) this sub clause shall not apply where the difference between the classes in terms of sub clause (1) is based on experience;
 - (ii) unless expressly otherwise provided in a written contract between the employer and employee, nothing in this determination shall be so construed as to preclude an employer from requiring an employee to perform work of another class for which class the same or a lower wage is prescribed for such an employee.

- (4) **Calculation of salary :** The ordinary salary, overtime and Sunday time of an employee, other than a casual employee, a ship security officer or a cargo security officer, shall be calculated on a monthly basis and an employee shall be paid accordingly.

- (a) The monthly salary of an employee shall be as stipulated in the relevant column of the tables in sub clause 3(1)(b).
- (b) Any hours in excess of the maximum daily or weekly ordinary hours or, if applicable, average weekly ordinary hours, as well as any hours in respect of work performed on a Sunday or public holiday, shall be calculated by using the "hourly equivalent" figure in the relevant column of the table in sub clause 3(1)(b), applying the relevant premium percentage.

- (5) **Night shift allowance :** If at least half of the shift ordinarily falls between the hours of 18:00 on one day and 06:00 the next day that employee will be entitled to and shall receive an allowance in respect of each night shift worked.

- (a) The night shift allowance payable in terms of this sub clause shall be R 2.50.
- (6) **Firearm Use:** An employer shall pay an employee who is required to carry a firearm issued by the employer for the performance of an employee's duties at a rate of not less than that specified for a grade D security officer for the time the employee was required to carry the firearm or at the rate which an employee normally receives, whichever is the highest.

4. PAYMENT OF REMUNERATION

- (1) For employees, other than casual employees, ship security officers and cargo security officers, an employer must pay to an employee any remuneration -
- (a) in South African currency;
 - (b) daily, weekly, fortnightly or monthly; and
 - (c) in cash, by cheque or by direct deposit in an account designated by the employee.
- (2) Any remuneration paid by cheque or by cash must be given to each employee -
- (a) during the ordinary hours of work, or
 - (b) within 15 minutes thereafter on the usual pay-day of the establishment for such employee, or
 - (c) at such time as may have been agreed upon between such employee and the employer, which time shall fall during the ordinary hours of work of the establishment, but not later than 48 hours after the usual pay-day, or
 - (d) within 7 days of termination of employment.
- (3) Such amount shall be contained in a sealed envelope.
- (4) An employer must give an employee a payslip on which the following information is included in writing on each day the employee is paid:
- (a) the employer's name and address;
 - (b) the employee's name or his number on the payroll, the employee's job category and grade;
 - (c) the period for which payment is made;
 - (d) the amount and purpose of any deductions made from the remuneration;
 - (e) the nett amount paid to the employee;
 - (f) the employee's hourly rate of pay and overtime rate;
 - (g) the number of ordinary hours worked by the employee;
 - (h) the number of overtime hours worked by the employee;
 - (i) the number of hours worked by the employee on a Sunday during that period;
 - (j) the number of hours worked by an employee on a public holiday during that period; and
 - (k) the details of any other remuneration arising out of the employee's employment contract or in terms of an agreement to average working time in terms of the BCEA No 75 of 1997;
- (5) The written information required in terms of sub clause (4) must be given to each employee at the workplace or at a place agreed to by the employee and such payslip on which these particulars are recorded or such statement shall become the property of the employee: Provided that -
- (a) the particulars prescribed above may be recorded on a payslip or such statement in code which shall be fully set out and explained in an accompanying notice or in a notice kept posted in some conspicuous place in the establishment, accessible to all employees affected thereby;
 - (b) the amount due to the employee may be paid into the employee's nominated building society or bank account, by manual or electronic funds transfer, by the employer, who shall, however, hand to the employee the aforementioned statement.
- (6) **Casual employees, ship security officers and cargo security officers :** An employer shall pay a casual employee, a ship security officer or a cargo security officer the remuneration due to the employee in cash on completion of each day's work: Provided that the employer may, at the request of such employee, pay the employee the remuneration at the end of that week or month, by mutual agreement.
- (7) **Premiums :** Subject to any other law, no payment by or on behalf of an employee shall be accepted by an employer, either directly or indirectly, in respect of the employment or training of that employee and no employer shall require an employee to -
- (a) repay any portion of the remuneration which was due to that employee; or
 - (b) acknowledge receipt of an amount greater than the remuneration actually paid to the employee.
- (8) **Purchase of goods :** An employer shall not require an employee to purchase any goods from the employer or from any shop, place or person nominated by the employer.

- (9) **Accommodation, meals and rations and payment in natura :** An employer shall not as a condition of employment require an employee to accept accommodation, meals or rations from the employer or from any person or at any place nominated by the employer. An employer shall not as a condition of employment require an employee to receive any in natura form of payment in lieu of wages or a part thereof.
- (10) If an employee works as a "**spare**" or "**reliever**", the employee will be employed on a full time basis, at the rate for the relevant category of employment, and the employer must pay the employee the amount that the employee would ordinarily have earned even if that employee had not been placed at a post.

- (11) **Deductions** : An employer shall not levy any fines against an employee nor make any deductions from the employee's remuneration other than the following -
- (a) subject to clause 4(11)(c), by agreement with the employee in writing in respect of a debt specified in the agreement, or
 - (b) a deduction of any amount which an employer by law or order of any competent court is required or permitted to make;
 - (c) to reimburse the employer for loss or damage only if -
 - (i) the loss or damage occurred in the course of employment and was due to the fault of the employee,
 - (ii) the employer has followed a fair procedure and has given the employee a reasonable opportunity to show why the deduction should not be made,
 - (iii) the total amount of the debt does not exceed the actual amount of the loss or damage, and
 - (iv) the total monthly deductions from the employee's remuneration in terms of this subclause do not exceed one quarter of the employee's monthly remuneration in money.
 - (d) With the written consent of the employee, a deduction for any medical, insurance, savings, provident or pension fund, or in respect of subscriptions to a trade union;
 - (e) Whenever the ordinary hours of work are reduced because of short time, a deduction not exceeding the amount of the employee's (other than a casual employee, a ship security officer or a cargo security officer's) hourly wage in respect of each hour of such reduction:

Provided that-

 - (i) such deduction shall not exceed one third of the employee's wage, irrespective of the number of hours by which the ordinary hours of work are thus reduced;
 - (ii) no deduction shall be made in the case of short time arising from slackness of business, unless the employer has given an employee notice on the previous working day of the employer's intention to reduce the ordinary hours of work;
 - (iii) no deduction shall be made in the case of short time owing to a breakdown of plant or machinery or a breakdown or threatened breakdown of buildings, in respect of the first hour not worked, unless the employer has given an employee notice on the previous day that no work will be available.
 - (f) with the written consent of an employee, a deduction towards the repayment of any amount loaned or advanced to the employee by the employer; Provided that -
 - (i) any such deduction shall not exceed one third of the total remuneration due to the employee on the pay-day concerned;
 - (ii) no such deduction shall be made in respect of any period during which the employee's wage is reduced in terms of sub clause (e);

Provisos (i) and (ii) shall not apply where the contract of employment is terminated.
 - (g) A deduction in accordance with the provisions of clause 9(7); and
 - (h) any other deduction made at the written request of the employee and with the agreement of the employer: Provided that if the purpose of such deduction is the payment of any amount to any banking institution, building society, insurance business, registered financial institution, local authority, the State or any third party, the employer shall make such payment to such institution in accordance with the request of the employee within the timeframe indicated in such request, or where no timeframe is indicated, within one week.

5. ORDINARY HOURS OF WORK, OVERTIME AND PAYMENT FOR OVERTIME

- (1) An employer shall not require or permit an employee to work more ordinary hours of work than provided for from the date of implementation of this determination -
- (a) a security officer, -

- (i) 48 in any week; and
 - (ii) subject to subparagraph (i), 12 on any day;
 - (b) a ship security officer or cargo security officer; 12 on any day;
 - (c) any other class of employee -
 - (i) 45 in any week; and
 - (ii) subject to subparagraph (i), in the case of an employee who normally works on-
 - (aa) not more than five days in a week, nine on any day; and
 - (ab) more than five days in a week, eight on any day.
- (2) **Averaging of Working Hours :** Despite sub clause (1), the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months, in terms of a written agreement.
- (a) An employer may not require or permit an employee who is a security officer to work more than -
 - (i) an average of 48 ordinary hours of work in a week over the agreed period; and
 - (ii) an average of ten hours overtime in a week over the agreed period.
 - (b) Any employee whose hours are averaged in terms hereof must be paid at the premium hourly rate in respect of all work performed on a Sunday or public holiday, as per clauses 7 and 8.
 - (c) Any employee whose hours are averaged in terms hereof will still take, and the employer shall grant, a weekly free period of at least 36 hours or a fortnightly free period of at least 60 hours in terms of clause (10).
- (3) **Compressed working week :** An agreement in writing may require or permit an employee to work up to 12 hours in a day, without receiving overtime pay. No such agreement may require or permit an employee to work -
- (a) more than 48 ordinary hours in any week, with the exception of the arrangements in respect of security officers in terms of sub clauses (1)(a);
 - (b) more than 10 hours overtime in any week; or
 - (c) on more than five days in any week.
- (4) **Meal intervals :** An employer shall not require or permit an employee, other than a casual employee, a security officer, a ship security officer or a cargo security officer, to work for more than five hours continuously without a meal interval of not less than one hour, during which interval such employee shall not be required or permitted to perform any work, and such interval shall not form part of the ordinary hours of work or overtime: Provided that -
- (a) such interval may be reduced to not less than half an hour by written mutual agreement between an employer and an employee;
 - (b) periods of work interrupted by intervals of less than one hour, except where proviso (a) or (e) applies, shall be deemed to be continuous;
 - (c) if such interval is longer than one hour, any period exceeding one and a quarter hours shall be deemed to form part of the ordinary hours of work;
 - (d) only one such interval during the ordinary hours of work of an employee on any day shall not form part of the ordinary hours of work;
 - (e) when on any day by reasons of overtime worked, an employer is required to give an employee a second meal interval, such interval may be reduced to not less than 15 minutes;
 - (f) a driver who during such interval does not work other than being or remaining in charge of the vehicle or its load shall for the purposes of this subclause be deemed not to have worked during such interval;
 - (g) in case of an employee who is wholly or mainly engaged in cleaning premises, if such interval is longer than three hours, any period in excess of three hours shall be deemed to form part of the ordinary hours of work.
- (5) **Rest intervals :** An employer shall grant to each employee, other than a driver, a security officer, a ship security officer or cargo security officer, a rest interval of not less than 15 minutes as practicable in the middle of the first and second work period of the day, and during such interval such employee shall not

- be required or permitted to perform any work, and such interval shall be deemed to be part of the ordinary hours of work of such employee.
- (6) **Hours of work to be consecutive :** Save as provided in sub clauses (4) and (5), all hours of work of an employee, other than a ship security officer or a cargo security officer, on any day shall be consecutive.
- (7) **Night Work :**
- (a) An employer may only require or permit an employee to perform night work if -
 - (i) the employee is compensated by the payment of an allowance, as per clause 3(5); and
 - (ii) public or other transportation is available between the employee's place of residence and the workplace at the commencement and conclusion of the employee's shift.
 - (b) An employer who requires an employee to perform work on a regular basis after 23:00 and before 06:00 the next day must inform the employee in writing, or orally, if the employee is not able to understand a written communication, in a language that the employee understands -
 - (aa) of any health and safety hazards associated with the work that the employee is required to perform; and
 - (ab) of the employee's right to undergo a medical examination in terms of sub clause (7)(c).
 - (c) At the request of the employee, enable the employee to undergo a medical examination, for the account of the employer, concerning those hazards -
 - (aa) before the employee starts, or within a reasonable period of the employee starting, such work; and
 - (ab) at appropriate intervals while the employee continues to perform such work; and
 - (d) Transfer the employee to suitable day work within a reasonable time if -
 - (aa) the employee suffers from a health condition associated with the performance of night work; and
 - (ab) if it is practicable for the employer to do so.
 - (e) For the purposes of sub clause (7)(b), an employee works on a regular basis if the employee works for a period of longer than one hour after 23:00 and before 06:00 at least five times per month or fifty times per year.
- (8) **Limitation of overtime:** The need to work overtime shall be at the sole discretion of the employer and an employer shall not require or permit an employee to work overtime otherwise than in terms of an agreement concluded by the employer with the employee and such overtime shall not exceed -
 - (a) three hours on any day or
 - (b) 10 hours in any week.
- (9) **Payment for overtime:** An employer shall pay an employee who works overtime, at a rate of not less than one and a half times the employee's hourly equivalent wage in respect of the total overtime period so worked by such employee.
- (10) **Rest periods:**
- (a) An employer must allow an employee -
 - (i) a daily rest period of at least 12 consecutive hours between the normal ending and recommencing work; and
 - (ii) a weekly rest period of at least 36 consecutive hours.
 - (b) A daily rest period in terms of sub clause (10)(a) may, by written agreement, be reduced to 10 hours for an employee -
 - (i) who lives on the premises at which the workplace is situated; and
 - (ii) whose meal interval lasts for at least three hours.
 - (c) Despite sub clause (10)(a)(ii), an agreement in writing may provide for -
 - (i) a rest period of at least 60 consecutive hours every two weeks; or
 - (ii) an employee's weekly rest period to be reduced by up to eight hours in any week; if the

rest period in the following week is extended equivalently.

(11) **Exceptions:**

- (a) Sub clauses (4), (5), (6), (8) shall not apply to an employee while an employee is engaged in emergency work.
- (b) Sub clause (4) shall not apply to an employee wholly or mainly engaged in the tending, feeding or cleaning of animals.

6. ANNUAL BONUS

- (1) An employer shall pay to every employee, for each month that the employee was paid or entitled to be paid in respect of each completed 12 months of service with such employer, an annual bonus, subject to the conditions of sub clauses (2) and (3), below calculated as follows:

$$\frac{A \times B}{12}$$

Where

A = Employee's hourly equivalent rate of pay

B = The actual ordinary hours worked by or the employee was entitled to be paid for the month

- (2) The annual bonus shall be paid on the anniversary of the employee's date of employment with the employer unless the employer and a representative trade union and/or the employee mutually agree in writing upon another date.
- (3) The annual bonus shall be calculated monthly as per (1) above at the ordinary salary rate earned during each relevant month and accumulated and paid to the employee as per sub clause (2).

7. PUBLIC HOLIDAY

- (1) All employees working on a Public Holiday will be remunerated in terms of the provisions of the Basic Conditions of Employment Act, No 75 of 1997, or any amendment thereto.
- (2) Compensation to a casual employee, a ship security officer or a cargo security officer for work on a public holiday :
 - (a) Whenever a casual employee works on a public holiday, the employer shall pay the employee in respect of the total period worked by the employee on such day an amount calculated at a rate of not less than double the hourly wage prescribed for a full-time employee in the same area who performs the same class of work as the casual employee is required to do. Provided that where the employer requires a casual employee -
 - (i) to perform the work of a class of employee for whom wages on a rising scale are prescribed, the expression "hourly wage" shall mean the hourly wage for a qualified employee of that class as calculated in term of clause 3(4);
 - (ii) to work for less than four hours on such a day, an employee shall be deemed to have worked for four hours.
 - (b) Whenever a ship security officer or a cargo security officer works on a public holiday, an employer shall pay the employee in respect of the total period worked by the employee on such day an amount calculated at a rate of not less than double the hourly wage.
- (3) **Payment :** The remuneration payable in terms of this clause to an employee, other than a casual employee, a ship security officer or a cargo security officer, shall be paid to the employee not later than the normal pay-day immediately after the day in respect of which such remuneration is payable. A casual employee, a ship security officer or a cargo security officer shall be remunerated as set out in clause 4(6).

8. COMPENSATION FOR WORK ON A SUNDAY

- (1) All employees working on a Sunday will be remunerated in terms of the provisions of the Basic Conditions of Employment Act, No 75 of 1997, or any amendment thereto.
- (2) Compensation to a casual employee, a ship security officer or a cargo security officer for work on a Sunday :
 - (a) Whenever a casual employee works on a Sunday, the employer shall pay the employee in respect of the total period worked by the employee on such day an amount calculated at a rate of not less than double the hourly wage prescribed for a full-time employee in the same area who performs the same class of work as the casual employee is required to do.

Provided that where the employer requires a casual employee -

 - (i) to perform the work of a class of employee for whom wages on a rising scale are prescribed, the expression "hourly wage" shall mean the hourly wage for a qualified employee of that class as calculated in term of clause 3(4);
 - (ii) to work for less than four hours on such a day, an employee shall be deemed to have worked for four hours.
 - (b) Whenever a ship security officer or a cargo security officer works on a Sunday, an employer shall pay the employee in respect of the total period worked by the employee on such day an amount calculated at a rate of not less than double the hourly wage.
- (3) **Payment :** The remuneration payable in terms of this clause to an employee, other than a casual employee, a ship security officer or a cargo security officer, shall be paid to the employee not later than the normal pay-day immediately after the day in respect of which such remuneration is payable. A casual employee, a ship security officer or a cargo security officer shall be remunerated as set out in clause 4(6).

9. ANNUAL LEAVE

- (1) In this clause "annual leave cycle" means the period of 12 months employment with the same employer immediately following -
 - (a) an employee's commencement of employment; or
 - (b) the completion of that employee's prior leave cycle.
- (2) The employer must grant an employee at least -
 - (a) 21 consecutive days annual leave paid in accordance with sub clause (12) below, in respect of each annual leave cycle; or
 - (b) by agreement, one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid; or
 - (c) by agreement, one hour of annual leave on full remuneration for every 17 hours on which the employee worked or was entitled to be paid.
- (3) An employee is entitled to take leave accumulated in an annual leave cycle, in terms of sub clause (2), on consecutive days.
- (4) An employer must grant, and an employee must take, annual leave not later than six months after the end of the annual leave cycle.
- (5) An employer may not require or permit an employee to take annual leave during -
 - (a) any other period of leave to which an employee is entitled in terms of this determination; or
 - (b) any period of notice of termination of employment.
- (6) Despite sub clause (5), an employer must permit an employee, at the employee's written request, to take paid leave during a period of unpaid leave.
- (7) An employer may reduce an employee's entitlement to annual leave by the number of days of occasional

leave, calculated at the employee's rate of remuneration, granted to the employee at the employee's request during that leave cycle.

- (8) An employer must grant an employee an additional day of paid leave if a public holiday falls on a day during an employee's annual leave on which the employee would ordinarily have worked.
- (9) An employer may not require or permit an employee to work for the employer during any period of annual leave.
- (10) Annual leave must be taken –
 - (a) in accordance with an agreement between the employer and the employee; or
 - (b) if there is no agreement in terms of sub clause (9)(a), at a time determined by the employer in accordance with this section.
- (11) An employer may not pay an employee instead of granting paid leave in terms of this clause, except –
 - (a) upon termination of employment; and
 - (b) in accordance with clause 20(9)(b).
- (12) An employer must pay an employee leave pay at least equivalent to the ordinary salary payable to the employee for the ordinary hours the employee would normally have worked during the period of annual leave, calculated –
 - (a) at the employee's rate of remuneration immediately before the beginning of the period of annual leave; and
- (13) An employer must pay an employee leave pay -
 - (a) before the beginning of the period of leave; or
 - (b) by agreement, on the employee's usual pay day.
- (14) An employee who has become entitled to a period of leave prescribed in sub clause (1), read with sub clause (7), and whose employment terminates before such leave has been granted and been taken, shall, upon such termination be paid the amount an employee would have received, in respect of the leave, had the leave been granted to the employee and taken by the employee as at the date of the termination, calculated in terms of sub clause (2).

10. SICK-LEAVE

- (1) In this clause "sick leave cycle" means the period of 36 months employment with the same employer immediately following -
 - (a) an employee's commencement of employment; or
 - (b) the completion of that employee's prior sick leave cycle.
- (2) During every sick leave cycle an employee is entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.
- (3) Despite sub clause (2), during the first six months of employment, an employee is entitled to one day's paid sick leave for every 26 ordinary worked.
- (4) During an employee's first sick leave cycle an employer may reduce the employee's entitlement to sick leave in terms of sub clause (2) by the number of days sick leave taken in terms of sub clause (3).
- (5) Subject to section 23 of the Basic Conditions of Employment Act, No 75 of 1997, an employer must pay an employee for a day's sick leave -
 - (a) the ordinary wage the employee would have received, excluding any allowances; and
 - (b) on the employee's usual pay day.
- (6) An agreement may reduce the pay to which an employee is entitled in respect of any day's absence in

terms of this section if –

- (a) the number of days of paid sick leave is increased at least commensurately with any reduction in the daily amount of sick pay; and
- (b) the employee's entitlement to pay -
 - (i) for any day's sick leave is at least 75 per cent of the wage payable to the employee for the ordinary hours the employee would have worked on that day; and
 - (ii) for sick leave over the sick leave cycle is at least equivalent to the employee's entitlement in terms of sub clause (2)

10A. PROOF OF INCAPACITY

- (1) An employer is not required to pay an employee in terms of clause 10 if the employee has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and, on request by the employer, does not produce a medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sickness or injury.
- (2) A medical certificate in terms of sub clause (1) must be issued and signed by –
 - (a) A medical practitioner
 - (b) Any other person who is certified to diagnose and treat patients and who is registered with a professional council established by an Act of Parliament;

11. FAMILY RESPONSIBILITY LEAVE

- (1) This section applies to an employee -
 - (a) who has been in employment with an employer for longer than four months; and
 - (b) who works for at least four days a week for that employer.
- (2) An employer must grant an employee, during each annual leave cycle, at the request of the employee, three day's paid leave, which the employee is entitled to take -
 - (a) when the employee's child is born;
 - (b) when the employee's child is sick; or
 - (c) in the event of the death of -
 - (i) the employee's spouse or life partner; or
 - (ii) the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.
- (3) An employer must pay an employee for a day's family responsibility leave -
 - (a) the ordinary wage the employee would have received for a day worked; and
 - (b) on the employee's usual pay day.
- (4) An employee may take family responsibility leave in respect of the whole or a part of a day.
- (5) Before paying an employee for leave in terms of this clause, an employer may require reasonable proof of an event contemplated in sub clause (2) for which the leave was required.
- (6) An employee's unused entitlement to leave in terms of this clause lapses at the end of the annual cycle in which it accrues.

12. MATERNITY LEAVE

- (1) An employee is entitled to at least four consecutive month's maternity leave.
- (2) An employee may commence maternity leave -
 - (a) at any time from four weeks before the expected date of birth, unless otherwise agreed; or
 - (b) on a date from which a medical practitioner or a midwife certifies that it is necessary for the employee's health or that of her unborn child.

- (3) No employee may work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.
- (4) An employee who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not the employee had commenced maternity leave at the time of the miscarriage or stillbirth.
- (5) An employee must notify her employer in writing, unless the employee is unable to do so, of the date on which the employee intends to -
 - (a) commence maternity leave; and
 - (b) return to work after maternity leave.
- (6) Notification in terms of sub clause (5) must be given -
 - (a) at least four weeks before the employee intends to commence maternity leave; or
 - (b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.
- (7) The payment of maternity benefits will be determined by the Minister subject to the provisions of the Unemployment Insurance Act, 1966 (Act No. 30 of 1966).
- (8) During the period of maternity leave the employer shall continue to contribute the provident fund monthly premium in respect of both the employer and employee contributions, the latter not to be recovered upon the return of the employee to work.
- (9) During the period of maternity leave the employer shall continue to contribute the employee's Private Security Industry Regulatory Authority monthly subscription fees, this not to be recovered upon the return of the employee to work.

13. STUDY LEAVE

Every employee with a minimum of one year uninterrupted employment with the same employer shall be entitled to paid study leave of a maximum of 3 (three) days in any year, in respect of any study at a tertiary establishment.

14. WRITTEN PARTICULARS OF EMPLOYMENT

- (1) An employer must supply an employee, when the employee commences employment, with the following particulars in writing -
 - (a) the full name and address of the employer;
 - (b) the name and occupation of the employee or a brief description of the work for which the employee is employed;
 - (c) the places of work and, where the employee is required or permitted to work at various places, an indication of this;
 - (d) the date on which the employment began;
 - (e) the employee's ordinary hours of work and days of work;
 - (f) the employee's salary or the rate and method of calculating salary;
 - (g) the rate of pay for overtime work;
 - (h) any other payments to which the employee is entitled;
 - (i) how frequently remuneration will be paid;
 - (j) any deductions to be made from the employee's remuneration;
 - (k) the leave to which the employee is entitled;
 - (l) the period of notice required to terminate employment, or if the employment is for a specified period, the date when employment is to terminate;
 - (m) a description of any council or sectoral determination which covers the employer's business;
 - (n) any period of employment with a previous employer that counts towards the employee's period of employment;
 - (o) a list of any other documents that form part of the contract of employment, indicating a place that is readily accessible to the employee where a copy of each may be obtained.
- (2) When any matter listed in sub clause (1) changes, the written particulars must be revised to reflect the

change and the employee must be supplied with a copy of the document reflecting the change.

- (3) If an employee is not able to understand the written particulars, the employer must ensure that they are explained to the employee in a language and in a manner that the employee understands.
- (4) Written particulars of this section must be kept by the employer for a period of three years after the termination of employment.

15. KEEPING OF RECORDS

- (1) Every employer must for all employees in his current employ keep a record containing at least the following information
 - (a) the employee's name and occupation;
 - (b) the time worked by each employee;
 - (c) the remuneration paid to each employee;
 - (d) the date of birth of any employee under 18 years of age; and
 - (e) any other prescribed information.
- (2) A record in terms of sub clause (1)(b) and (1)(c) must be kept by the employer for a period of three years from the date of the last entry in the record of which the most recent six months record must be hard copy and older may be kept electronically
- (3) No person may make a false entry in a record maintained in terms of sub clause (1).
- (4) An employer who keeps a record in terms of this clause is not required to keep any other record of time worked and remuneration paid as required by any other employment law.
- (5) An employer must for all employees who have left his employ keep the above records for a period of three years of which the most recent six months records as per (1)(b) and (1)(c) must be hard copy.

16. PRESUMPTION AS TO WHO IS AN EMPLOYEE

- (1) Any person on contract performing the duties of a security officer, as defined in sub clauses 2(54) to 2(61), as well as any person on contract performing the duties of other categories, as defined herein, except for managers.
- (2) Until the contrary is proved, a person who works for, or provides services to, any other person is presumed, regardless of the form of the contract, to be an employee, if any one or more of the following factors are present :
 - (a) the manner in which the person works is subject to the control or direction of another person;
 - (b) the person's hours of work are subject to the control or direction of another person;
 - (c) in the case of a person who works for an organisation, the person forms part of that organisation;
 - (d) the person has worked for that person for an average of at least 40 hours per month over the last three months;
 - (e) that person is economically dependant on the person for whom they work or provide services;
 - (f) the person is provided with their tools of trade or work equipment by that person; or
 - (g) the person only works for or supplies services to one person.

17. WEAPONS, UNIFORMS, OVERALLS AND PROTECTIVE CLOTHING

- (1) An employer shall -
 - (a) provide free of charge any weapon, ammunition, tool, whistle or other equipment which a security officer, in the performance of the employee's duties, needs or is required to use for self-defence or apprehension;
 - (b) in a like manner provide the officer with, or ensure that an officer is provided with, a seat which has a proper back support;

- (c) supply, free of charge, a jersey, coat or other suitable outer garment for the employee's protection against cold or wet weather, as well as any footwear, uniform, overall, or other protective clothing which an employer requires an employee to wear or which an employee is required by any law to provide for an employee. An employer who provides an employee with any such apparel, may require the employee to clean it in the employee's own time, in which event the employer shall pay the employee not less than R1-85 per week, which shall however not be payable during periods of absence from work.
- (2) Any article provided by an employer in terms of sub clause (1) shall remain the employer's property.
- (3) No employer shall make any deduction from the wages of any employee in regard to any article provided to that employee in terms of sub clause (1): Provided that where an article is found by a fair procedure to have been lost or damaged by an employee, excluding damage arising from the performance of the employee's duties or normal wear and tear, an employer may, notwithstanding anything to the contrary in this determination, recover the cost of such article from the employee by making a deduction over an appropriate period from that employee's wage. Further, provided that such monthly deduction shall not exceed one tenth of the employee's monthly remuneration.

18. PROHIBITION OF EMPLOYMENT OF CHILDREN

- (1) No person may employ a child -
 - (a) who is under 15 years of age; or
 - (b) who is under the minimum school-leaving age in terms of any law, if this is 15 or older.
- (2) No person may employ a child in employment -
 - (a) that is inappropriate for a person at that age;
 - (b) that places at risk the child's well-being, education, physical or mental health, or spiritual, moral or social development.
- (3) A person who employs a child in contravention of sub clause (1) or (2) commits an offence.

19. PROHIBITION OF FORCED LABOUR

- (1) Subject to the Constitution of the Republic of South Africa, all forced labour is prohibited.
- (2) No person may, for the employee's own benefit or for the benefit of someone else, cause, demand or impose forced labour in contravention of sub clause (1).
- (3) A person who contravenes sub clauses (1) or (2) commits an offence.

20. TERMINATION OF CONTRACT OF EMPLOYMENT

- (1) Subject to sub clause (6)(b), a contract of employment terminable at the instance of a party to the contract may be terminated only on notice of not less than -
 - (a) one week, if the employee has been employed for four weeks or less;
 - (b) two weeks, if the employee has been employed for more than four weeks but less than one year; and
 - (c) four weeks, if the employee has been employed for one year or more.
- (2) A collective agreement may not permit a notice period shorter than required by sub clause (1).
- (3) No agreement may require or permit an employee to give a period of notice longer than that required of the employer.
- (4)
 - (a) Notice of termination of a contract of employment must be given in writing, except when it is given by an illiterate employee.
 - (b) If an employee who receives notice of termination is not able to understand it, the notice must be explained orally by, or on behalf of, the employer to the employee in an official language the

employee reasonably understands.

- (5) Notice of termination of a contract of employment given by an employer or an employee must not -
 - (a) be given during any period of leave to which the employee is entitled in terms of clause 9(1), and
 - (b) run concurrently with any period of leave to which the employee is entitled in terms of clause 9(1), except sick leave.
- (6) Nothing in this clause affects the right -
 - (a) of a dismissed employee to dispute the lawfulness or fairness of the dismissal in terms of Chapter VIII of the Labour Relations Act, 1995, or any other law, and
 - (b) of an employer or an employee to terminate a contract of employment without notice for any cause recognised by law.
- (7) Instead of giving an employee or employer notice in terms of sub clause (1), an employer may pay the employee the remuneration the employee would have received, calculated in accordance with sub clause (1), as if the employee had worked during the notice period.
- (8) If an employee gives notice of termination of employment and the employer waives any part of the notice, the employer must pay the remuneration referred to in sub clause (7), unless the employer and employee agree otherwise.
- (9) On termination of employment, an employer must pay an employee -
 - (a) remuneration in respect of -
 - (i) ordinary time worked, calculated in terms of clause 3(4);
 - (ii) overtime worked, calculated in terms of clause 5(9);
 - (iii) time worked on a Sunday, calculated in terms of clause 8(3); and
 - (iv) time worked on a public holiday or in respect of a public holiday on which the employee would normally have worked if it had not been a public holiday, in terms of clauses 7(1) and 7(2);
 - (b) remuneration calculated in accordance with clause 9(12) for any period of annual leave due in terms of clause 9(2) that the employee has not taken;
 - (c) if the employee has been in employment longer than four months, in respect of the employee's annual leave entitlement during an incomplete annual leave cycle, at a rate of one day's remuneration in respect of every 17 ordinary days on which the employee worked or was entitled to be paid.

21. SEVERANCE PAY

- (1) For the purposes of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.
- (2) An employer must pay an employee who is dismissed for reasons based on the employer's operational requirements severance pay equal to at least one week's remuneration for each completed year of continuous service with that employer, calculated in accordance with clause 3.
- (3) An employee who unreasonably refuses to accept the employer's offer of alternative employment with that employer or any other employer, is not entitled to severance pay in terms of sub clause (2).
- (4) The payment of severance pay in compliance with this clause does not affect an employee's right to any other amount payable according to law.
- (5) If there is a dispute only about the entitlement to severance pay in terms of this section, the employee may refer the dispute in writing to -
 - (a) a council, if the parties to the dispute fall within the registered scope of that council; or
 - (b) the CCMA, if no council has jurisdiction.

- (6) The employee who refers a dispute to the council or the CCMA must satisfy it that a copy of the referral has been served on all other parties to the dispute.
- (7) If the dispute remains unresolved, the employee may refer it to arbitration.
- (8) If the Labour Court is adjudicating a dispute about a dismissal based on the employer's operational requirements, the Court may inquire into and determine the amount of any severance pay to which the employee may be entitled and the Court may make an order directing the employer to pay that amount.

22. CERTIFICATE OF SERVICE

- (1) On termination of employment an employee is entitled to a certificate of service in the form of annexure "A" stating -
 - (a) the employee's full name;
 - (b) the name and address of the employer;
 - (c) a description of any bargaining council or sectoral employment standard by which the employer's business is covered;
 - (d) the date of commencement and date of termination of employment;
 - (e) the title of the job or a brief description of the work for which the employee was employed at the date of termination;
 - (f) the remuneration at date of termination; and
 - (g) if the employee so requests, the reason for termination of employment.

23. ATTENDANCE REGISTER

- (1) An employer shall maintain an attendance register in any form of attendance documentation which is acceptable substantially in the form of annexure "B", in which the employer shall record in ink or indelible pencil the name and class of each of the employees for each day worked and on that day make the necessary entries in respect of items (i) to (vi) of sub clause (3)(a).
- (2) An employer may, instead of an attendance register, provide a semi-automatic time recorder which records substantially the same information as is required to be kept in the attendance register specified in sub clause (1).
- (3) Every employer shall, in respect of each day worked by an employee on that day -
 - (a) record in ink or indelible pencil in such attendance register referred to in sub clause (1) -
 - (i) the day of the week;
 - (ii) the time an employee commenced work;
 - (iii) the time of commencement and termination of all meal or other intervals which are not reckonable as ordinary hours of work;
 - (iv) the time of finishing work for the day;
 - (v) the time of commencement and termination of overtime worked for the day; and
 - (vi) the total amount of hours worked for the day.
 - (b) in an establishment where a semi-automatic time recorder is provided, make an entry by means of such recorder to show the following :
 - (i) the time of commencement of work;
 - (ii) the time of commencement and termination of all meal or other intervals which are not reckonable as ordinary hours of work; and
 - (iii) the time of finishing work for the day.
- (4) An employer shall retain such attendance register referred to in sub clause (1) or the information recorded by a semi-automatic time recorder referred to in sub clause (2), as case may be, for a period of not less than three years after the date of the last entry therein or thereon. Such register may be kept in electronic form.

24. PRIVATE SECURITY SECTOR PROVIDENT FUND

1. Membership

- (1) Each employee, subject to the exclusions in clause 1(2) that falls within the definition of eligible employee as contained in the Fund Rules, shall, on or after the coming into operation of this Determination, become a member of the Private Security Sector Provident Fund.
- (2) If an employee who has become a member of the Fund ceases to fall within the scope of this Determination owing to the employee ceasing to be employed in the Private Security Services Sector or as a result of the employee no longer being classified as an eligible member as defined the employee shall cease to be a member of the Fund and the payment of withdrawal benefit will be made to the member as provided for in the Fund Rules.

2. Contributions

- (1) Contributions shall be made by employers and employees as from the date of coming into operation of this Determination as specified hereunder.
 - (a) The employer shall each month deduct from the earnings of each employee in respect of such month, or part thereof, an amount equal to 6,5 % (five per cent) of the employee's Fund Salary, being contributions to the Provident Fund.
 - (b) The employer shall each month contribute in respect of such month or part thereof an amount equal to 6,5% (five per cent) of the employees' Fund Salary being the employer's contributions to the Provident Fund.
 - (c) When an employee is on approved leave with full pay, or with less than full pay, the employee shall contribute to the Fund, in accordance with sub clause (1)(a), and the employer shall continue to contribute in respect of the employee, in accordance with sub clause (1)(b), and all benefits under the Fund in respect of the employee shall be maintained,
 - (d) If an employee is on approved leave without pay, no contributions shall be made by the employee in terms of sub clause (1)(a), but the employer shall continue to contribute on behalf of the employee in terms sub clause (1)(b), in order that the death, disability and funeral benefits shall continue to be payable.
 - (i) throughout the period of leave, if the employee's leave is due to sickness; or
 - (ii) for not longer than six months, if the employee's leave is due to reasons other than sickness.
- (2) The amount payable in each month in terms of this clause shall be deposited by the employer directly into the Fund's bank account no later than the 7th day of the month immediately following the month in which deductions and contributions were made.
 - (a) in South African currency
 - (b) in cash, by cheque or by direct deposit in an account designated by the administrators, and
 - (c) together with such particulars as are required in terms of the Retirement Funds Act and/or by the board;
 - (d) the contribution payable shall constitute an amount calculated at a rate of not less than 13% of the employee's wage or as amended by the Board of Management from time to time; and
 - (e) such amount as referred to in paragraph (d) shall constitute an equal contribution by an employer and employee.

- (3) If any amount which falls due in terms of this clause is not received in full by the administrator of the Fund by the 7th day of the month following the month for which the amount is payable, then the employer shall be liable to pay penalty interest in accordance with section 13A of the Pension Funds Act,
- (4) Any deductions in terms of this clause will not be in violation of clause 4(11)(d) of the Private Security Sector Sectoral Determinations No 6, 2001.

3. Administration and provision of the fund

In order to realise the objects of the Fund the trustees shall

- (1) direct control and oversee the operation of the Fund in accordance with the Fund Rules and the Pension Funds Act.
- (2) enter into an agreement with an administrator to administer the Fund; and
- (3) at their elections
 - (a) enter into an agreement with a registered insurance company; or
 - (b) establish a self-insurance arrangement or cell captive arrangement to provide Death, Disability and/or Funeral benefits.

4. Fund rules

- (1) The Fund Rules constitute the rules that govern the Fund in the Private Security Sector.
- (2) In the event of any discrepancy between this Sectoral Determination and the Fund Rules, the Fund Rules will apply.

5. Exemption Criteria

- (1) The following criteria for an exemption from the Private Security Sector Provident Fund will apply, provided that -
 - (a) If the employer, prior to the publication of Government Notice No 306 of 30 March 2001, had an existing pension or provident fund registered with the Registrar of Pension Funds covering employees for whom minimum wages are prescribed in Sectoral Determination No 3, as amended or replaced.
 - (b) If the employer, prior to the publication of Government Notice No 306 of 30 March 2001, did not have an existing pension or provident fund registered with the Registrar of Pension Funds covering employees for whom minimum wages are prescribed in Sectoral Determination No 3, as amended or replaced, but before 30 March 2001, the employer and its employees have consulted in writing to commence negotiations for the establishment of a pension or provident fund for such employees.
- (2) The Board will consider all applications for exemption from the provisions of the Private Security Sector Provident Fund.
- (3) Applications will be in writing and addressed to the Board of the Private Security Sector Provident Fund. Applications shall comply with the following:
 - (a) Be fully motivated.
 - (b) Be accompanied by relevant supporting data and financial information.
 - (c) Applications that affect employees' conditions of service will not be considered unless the employees or their representatives have been properly consulted and their views fully recorded

- in an accompanying document.
- (d) Indicate the period for which exemption is required.
- (4) In considering the application the Board shall take into consideration all relevant factors, which may include, but shall not be limited to, the following criteria :
- (a) Any special circumstances that exist
 - (b) Any precedent that may be set
 - (c) The interest of the industry as regards -
 - (i) Unfair competition
 - (ii) Collective bargaining
 - (iii) Potential for labour unrest
 - (iv) Increased employment
 - (d) The interest of employees as regards :
 - (i) Exploitation
 - (ii) Job preservation
 - (iii) Sound conditions of employment
 - (iv) Possible financial benefits
 - (v) Health and safety
 - (vi) Infringement of basic rights
 - (e) The interest of the employer as regards :
 - (i) Financial stability
 - (ii) impact of productivity
 - (iii) Future relationship with employees trade union
 - (iv) Operational requirements
- (5) If the application is granted, the Board shall issue an exemption certificate, signed by the chairperson, containing the following particulars :
- (a) The full name of the applicant
 - (b) The trade name of the applicant
 - (c) The period for which the exemption shall operate
 - (d) The date of issue
 - (e) The conditions of the exemption granted
- (6) If the exemption is refused the Board shall specify its reasons for not granting the application, and which will be communicated to the applicant.
- (7) The Board shall retain a copy of the certificate and number each certificate sequentially.
- (8) An employer to whom a certificate of exemption has been issued shall at all times have the certificate available for inspection at his establishment.
- (9) Any application by an Employer for exemption shall in no way whatsoever affect the Employer's obligations, nor his employees' rights, with regard to the payment of all contributions and benefits in terms of the rules of that employer's retirement fund and/or his employees' conditions of employment during any period that the application is under consideration.

25. EMPLOYERS TO KEEP A COPY OF THIS DETERMINATION

Every employer upon whom this Determination is binding must :

- (1) keep a copy of this Sectoral Determination available in the workplace at all times;
- (2) make a copy available for inspection by an employee; and
- (3) give a copy of this Sectoral Determination -
 - (a) to an employee who has paid the prescribed fee; and
 - (b) free of charge, on request, to an employee who is a trade union representative or a member of a workplace forum.

26. VARIATION BY MINISTER

The Minister may make a determination to replace or exclude any basic condition of employment provided for in this determination in terms of section 50 of the Basic Conditions of Employment Act, 1997, upon motivated application by an employer and/or an employers' association.

All the provisions of sectoral determination 6: private security sector, South Africa published under Government notice Nr 1250 of 30 November 2001, clarification notice published under Government notice Nr 45 of 19 January 2001, amendments published under Government gazette notice Nr 306 of 30 March 2001, Government gazette notice Nr 804 of 13 June 2003, correction notice of Nr 1109 of 1st October 2004, correction notice of Nr 1430 of 10 December 2004 and all other amendments thereto will be superseded by this sectoral determination with effect from the date of implementation.

**DEPARTMENT OF HEALTH
DEPARTEMENT VAN GESONDHEID**

No. R. 875

9 September 2005

HEALTH PROFESSIONS ACT, 1974 (ACT NO. 56 OF 1974)

**REGULATIONS RELATING TO THE CONDUCT OF INQUIRIES INTO ALLEGED
UNPROFESSIONAL CONDUCT UNDER THE HEALTH PROFESSIONS ACT, 1974**

The Minister of Health intends, in consultation with the Health Professions Council of South Africa, under section 61(1)(h), read with sections 61(4) of the Health Professions Act, 1974 (Act No. 56 of 1974), to make the regulations in the Schedule.

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

SCHEDULE

Definitions

1. In this Schedule, "**the Act**" means the Health Professions Act, 1974 (Act No. 56 of 1974), and any word or expression to which a meaning has been assigned in the Act shall bear that meaning, and unless the context otherwise indicates –

"**appeal committee**" means a committee established by a professional board under section 10(2) of the Act for the purposes of conducting an appeal against the finding of a committee of preliminary inquiry or inquiry conducted by a professional board or a committee established for that purpose;

"**appellant**" means the respondent or pro forma complainant who is aggrieved by a decision of a committee of preliminary inquiry, professional conduct committee or a professional board, and who appeals to the appeal committee;

"committee of preliminary inquiry" means a committee established by a professional board in terms of the Regulations relating to the Functions and Functioning of Professional Boards published under the Government Notice No. R 979 of 13 August 1999 for the preliminary investigation of complaints and determination thereof;

"complainant" means any natural or juristic person, group, registrar or professional body including a professional association or society, teaching or training institution, or any other health care or related facility which has lodged a complaint against a registered person pertaining to possible unprofessional conduct;

"complaint" means any information regarding the alleged unprofessional conduct by a person registered under the Act, which comes to the attention of the registrar, the council or a professional board, or a complaint, charge or allegation of unprofessional conduct against such person;

"inquiry" means an inquiry held by a professional board or a professional conduct committee under Chapter IV of the Act and these regulations to inquire into a complaint against a person registered person;

"minor transgression" means unprofessional conduct which, in the opinion of the committee of preliminary inquiry based on the documents presented before that committee, is trivial in nature to warrant the holding of a professional conduct inquiry;

"ombudsman" means a person appointed by the council to screen complaints received as per categorisation of significance and the seriousness of the complaint by the council, and where appropriate to mediate and adjudicate minor issues of miscommunication between practitioners and complainants;

"preliminary inquiry" means an inquiry held in terms of these regulations by a committee appointed by a professional board under section 15(5)(f) of the Act to consider a complaint against a registered person for whom that professional board is responsible in order to make a determination on the appropriate manner in which to deal with such a complaint;

"professional conduct committee" means a committee established by a professional board under the Regulations relating to the Functions and Functioning of Professional Boards published under Government Notice No. R. 979 of 13 August 1999 to conduct a professional conduct inquiry;

"pro forma complainant" means a person appointed by the registrar to represent the complainant and to present the complaint to a professional conduct committee; and

"respondent" means a person registered under the Act whose conduct is the subject of a complaint or an inquiry under Chapter IV of the Act and these regulations or a person opposing the appeal.

Lodging of complaints

2. (1) A complaint must be in writing and be addressed to the ombudsman, the registrar, the council or to a professional board.
- (2) Where a complaint is addressed to and received by the council, a professional board or the registrar, the council, such professional board or the registrar must submit it to the ombudsman within 24 hours of receipt of such a complaint.

Ombudsman

3. The ombudsman must -
 - (a) screen the complaints as per categorisation of significance and the seriousness of the complaint and refer them to the registrar for preliminary investigations;
 - (b) mediate and adjudicate minor issues of miscommunication between practitioners and complainants; and
 - (c) refer matters not falling within the jurisdiction of the council to appropriate bodies or tribunals and inform the complainant about such referral.

Preliminary Inquiry

4. (1) The registrar may –

- (a) within seven working days after he or she received a complaint from ombudsman, call for further information or an affidavit from the complainant;
 - (b) subject to paragraph (a), within seven working days after he or she received a complaint from the ombudsman, notify the respondent about the complaint and forward particulars of the complaint to him or her,-
 - (i) requesting a written response from such respondent within 21 working days after receipt of such notification or particulars, failing which the complaint will be forwarded to the committee of preliminary inquiry without such written response;
 - (ii) warning him or her that failure to respond to the notification or particulars referred to in subparagraph (i) constitutes a contempt of council, and that a response includes a communication to indicate the right to remain silent; and
 - (iii) warning him or her that a written response referred to in subparagraph (i) may be used as or in evidence against him or her: Provided that a notification referred to in this paragraph is deemed to have been received –
 - (aa) on the day such notification is hand delivered to the registered address of the respondent; or
 - (bb) if such notification is sent by registered mail, on the seventh day following the date on which it was posted;
 - (c) refer the case directly to the committee of preliminary inquiry or the chairperson of such committee of the professional board concerned; and
 - (d) direct that an inspection be held in terms of section 41A of the Act.
- (2) On receipt by the registrar of further information and a written response referred to in subregulation (1) (a) and (b), he or she must submit such further information and a written response to the committee of preliminary inquiry, and if no further information or written response is

received, the registrar must record this fact and report to the committee of preliminary inquiry.

- (3) The committee of preliminary inquiry may, after due consideration of the matter referred to it in terms of subregulation (2), direct the registrar to summon the respondent to appear before the committee of preliminary inquiry at its next meeting to answer why he or she did not respond to the council's correspondence and to give his explanation to the complaint or exercise his or her right to remain silent.
- (4) If the committee of preliminary inquiry decides, after due consideration of the explanation given by the respondent for failure to respond to the correspondence of the council, that the respondent is in contempt of council, it must make a finding of guilty for contempt of council and impose one or more of the penalties provided for in section 42(1) (a), (b), (e) and (f) of the Act, order the respondent to submit his or her explanation to the complaint within such period as may be determined by the committee and direct the registrar to communicate its decision in writing to the respondent stating the reason(s) for such decision.
- (5) If the respondent fails to attend a meeting of the committee of preliminary inquiry after having been duly sent a summons to appear before such a committee, the committee may make a finding of guilty for contempt of council and impose one or more of the penalties provided for in section 42(1) (a), (b), (e) and (f) of the Act, order the respondent to submit his or her explanation to the complaint within such period as may be determined by the committee and direct the registrar to communicate its decision in writing to the respondent stating the reason(s) for such a decision.
- (6) The finding made and the penalty imposed by the committee of preliminary inquiry in terms of subregulation (4) and (5) has immediate force and effect.
- (7) If a committee of preliminary inquiry decides, after due consideration of the complaint, any further information which may have been received in terms of subregulation (1) (a) and the explanation of the respondent, that there are no grounds for taking further action on the matter, it must note

the explanation and give reasons and direct the registrar to communicate its decision in writing to the complainant and the respondent stating the reason(s) for such a decision.

- (8) If a committee of preliminary inquiry decides, after due consideration of the complaint, any further information which may have been received in terms of subregulation (1) (a) and the explanation of the respondent, that there are grounds for the holding of a professional conduct inquiry into the conduct of the respondent, it must direct the registrar to communicate its decision in writing to the complainant and the respondent, and to arrange for the holding of such inquiry.
- (9) If committee of preliminary inquiry decides, after due consideration of the complaint, any further information which may have been received in terms of subregulation (1) (a) and the explanation of the respondent, that the respondent acted unprofessionally and the conduct in question constitutes a minor transgression, it must determine as a suitable penalty to be imposed one or more of the penalties provided for in section 42 (1) (a), (d), (e) and (f) of the Act, and direct the registrar to draft the charges to be sent with a communication of its decision in writing to the complainant and the respondent stating the time within which the penalty has to be accepted or rejected: Provided that if the penalty –
 - (a) is accepted by the respondent, proof of compliance with such penalty has to accompany the notice of acceptance to the registrar and such penalty is regarded as penalty imposed by the committee of preliminary inquiry; or
 - (b) is rejected by the respondent, the registrar must arrange for the holding of a professional conduct inquiry into the conduct of the respondent and the penalty so rejected shall no longer be applicable to the matter.

Appeal

- 5. (1) The respondent may appeal against the finding or the penalty of the committee of preliminary inquiry made in terms of regulation 4 (4) and (5) to the appeal committee or both such a finding and such penalty.

- (2) The appellant must notify the registrar of his or her intention to appeal against the decision of the committee of preliminary inquiry within 21 days from the date of receipt of the communication referred to in regulation 4 (4) and (5): Provided that an appeal lodged after 21 days may only be considered if accompanied by an application for condonation stating reasons for the late filing of the notice of appeal, which shall be considered by the appeal committee before the appeal on the merits.
- (3) The registrar must provide the appellant with copies of the document that served before the committee of preliminary inquiry and of the relevant portion of the minutes of the meeting within seven days from the date on which the registrar received a written notice of appeal.
- (4) The appellant must, within 21 days from the date on which he or she received copies of the documents referred to in subregulation (3), file with the registrar six sets of copies of his or her papers setting out the grounds of appeal and containing his or her summary of argument.
- (5) The chairperson of the committee of preliminary inquiry must, within 14 days from the date on which the appellant filed his or her papers with the registrar, file six sets of copies of the documents that served before the committee of preliminary inquiry and the reply to the summary of argument referred to in subregulation (4) with the registrar.
- (6) The registrar must, after the expiry of 14 days referred to in subregulation (5), advise both parties in writing of the date on which the appeal will be heard by the appeal committee.
- (7) The appeal committee must consider the appeal on papers referred to in subregulation (4) and (5), deliberate on the matter and advise the parties of its findings within five days of the date of appeal.
- (8) The decision of the appeal committee is of force and effect from the date determined by such committee, and may be set aside by the High Court on review

Inquiry

6. (1) On receipt of a directive referred to in regulation 4 (8) or a notice rejecting the penalty in terms of regulation 4 (9) (b), the registrar must issue a notice, which is attached hereto and essentially in the form of Annexure A and addressed to the respondent, stating the time and place where the inquiry will be held and enclosing a charge sheet as formulated by the *pro forma* complainant.
- (2) The notice referred to in subregulation (1) shall be served on the respondent or mailed to his or her registered address by a registered mail at least 30 days prior to the date of the aforesaid inquiry.

Constitution of the professional conduct committee

7. (1) The registrar must, with the approval of the chairperson of the professional board, appoint the professional conduct committee.
- (2) The professional conduct committee must comprise of the following persons –
- (a) The chairperson who is a member of the board or council;
 - (b) two persons registered in the profession in which the respondent is registered;
 - (c) one person representing the community; and
 - (d) one person as legal assessor.

Request for further particulars

8. (1) A request by the respondent for further particulars to the charge sheet referred to in regulation 6 (1) must be served on the *pro forma* complainant at least 14 days before the date of the inquiry.
- (2) The *pro forma* complainant must furnish his or her written reply to a request referred to in subregulation (1) to the respondent within seven days after receipt of the request.
- (3) Any request for further particulars served on the *pro forma* complainant less than 14 days before the date of the inquiry may not be responded to.

Discussion prior to inquiry

9. (1) In order to determine the issues in dispute at the inquiry, the *pro forma* complainant must, at least seven days prior to the inquiry, arrange a pre-inquiry conference which must be attended by both parties and their legal representatives, if any, at a mutually convenient time and venue, where –

(a) the respondent or his or her legal representative must indicate the exceptions, objections (including the objection to jurisdiction of a professional conduct committee to inquire into the matter) or points *in limine* he or she intends to raise;

(b) the respondent or his or her legal representative must indicate how he or she intends to plead to the charge sheet;

(c) copies of all documents, reports, notes, x rays and any other exhibits which a party intends to use at the inquiry are furnished to the other party;

(d) perusal of the originals of the documents, reports, notes, x rays and any other exhibits referred to in paragraph (c) is allowed;

(e) admissions are made by both parties with regard to allegations or exhibits;

(f) a summary of the opinion of an expert witness a party intends to use at the inquiry is furnished to the other party; and

(g) any other aspect concerning the inquiry is resolved.

(2) A pre-inquiry minutes must be signed by both parties and must be kept for submission to the professional conduct committee at the hearing.

- (4) The professional conduct committee may order a party who failed to attend a pre-inquiry conference to attend such a conference and also to pay the wasted costs of the day for the hearing.

Procedure at inquiry

10. (1) The chairperson of the professional conduct committee must ask the respondent or his or her legal representative, if represented, to plead to the charge, which plea must be recorded.
- (2) If the respondent or his or her legal representative refuses or fails to plead to the charge, this must be recorded by the chairperson of the professional conduct committee and enter a plea of not guilty.
- (3) The *pro forma* complainant may address the professional conduct committee on the plea tendered and he or she may lead evidence in support of his or her case.
- (5) The respondent or his or her legal representative may apply for his or her discharge after the *pro forma* complainant has closed his or her case.
- (5) The *pro forma* complainant will be given an opportunity to reply to respondent's application for discharge.
- (6) The professional conduct committee must then consider the application and give its decision.
- (7) If the application for a discharge is dismissed, the respondent may address the professional conduct committee and he or she may lead evidence in support of his or her case.
- (8) The professional conduct committee may allow any of the parties to lead further evidence or to recall a witness after their cases have been closed, and the other party will be given the opportunity to cross-examine such witness.

- (9) The chairperson of the professional conduct committee and the other members of the professional conduct committee may examine a witness who has given evidence.
- (10) Further cross-examination and re-examination of a witness shall be allowed on matters arising from the examination by the chairperson and other members of the professional conduct committee.
- (11) After the parties have closed their cases, the professional conduct committee may call and examine further witnesses or recall and re-examine a witness whereafter the parties or their legal representatives are entitled to cross-examine or re-examine the witness.
- (12) After all the evidence has been adduced, the parties may address the professional conduct committee on the evidence and the legal position.
- (13) The *pro forma* complainant may reply to any matter of law raised by the respondent or his or her legal representative in his or her address and may, with the leave of the professional conduct committee, reply to any matter or fact raised by the respondent in his or her address.
- (14) If the respondent is not present at the inquiry after having been duly notified, the inquiry may proceed in the respondent's absence and a plea of not guilty shall be entered, unless the respondent has, in writing, pleaded guilty: Provided that the professional conduct committee may consider the postponement of the inquiry if the respondent's absence is due to bona fide circumstances.
- (15) All oral evidence must be taken under oath or affirmation administered by the chairperson of the professional conduct committee.
- (16) Evidence of affidavit is admissible: Provided that the opposing party may require the deponent of such affidavit to be present for purposes of cross-examination.
- (17) (a) The record or a portion of the record of a lawfully constituted court, inquest court or any disciplinary tribunal from any jurisdiction is acceptable as *prima facie* evidence if it has been certified to be a true copy by that court or disciplinary tribunal.

- (b) If it is practicable and appears just, the professional conduct committee may, for the purpose of cross-examination, order the attendance of a witness whose evidence appears in such record and which is presented as *prima facie* evidence.
- (18) Upon the conclusion of a case, the professional conduct committee must deliberate thereon in camera and must inform the respondent of the penalty decided on.
- (19) The professional conduct committee may make a finding of not guilty even where the respondent has pleaded guilty if the professional conduct committee is not satisfied from the plea that the respondent is guilty.
- (20)
 - (a) If the respondent is found guilty, the *pro forma* complainant shall furnish details of previous unprofessional conduct of the respondent under the Act, if any, to the professional conduct committee.
 - (b) The *pro forma* complainant may address the professional conduct committee and lead evidence regarding a suitable penalty to be imposed.
 - (c) The respondent or his or her legal representative may thereafter address the professional conduct committee and adduce evidence in mitigation of the penalty to be imposed whereafter the *pro forma* complainant may reply.
 - (d) The finding made and penalty imposed by the professional conduct committee is of immediate force and effect unless a date is determined by the professional conduct committee.

Appeal

- 11. (1) The respondent or *pro forma* complainant may appeal to the appeal committee against the finding or penalty imposed or both such a finding and penalty by the professional conduct committee.

- (2) The appellant must file the notice of his or her intention to appeal with the registrar within 21 days from the date of the decision of the professional conduct committee: Provided that a notice of intention to appeal filed after 21 days may only be considered by the appeal committee if accompanied by an application for condonation stating the reasons for the delay, and such application must be considered by the appeal committee before the appeal on the merits.
- (3) The registrar must provide the appellant with a copy of a transcript of the proceedings at the inquiry within 30 working days from the date on which he or she received a notice of appeal referred to in subregulation (2): Provided the appellant pays the costs of such a copy of a transcript.
- (4) The appellant must file six sets of copies of his or her papers setting out the grounds for appeal, and containing heads of argument, with the registrar within 30 days from the date on which he or she received a copy of the transcript referred to in subregulation (3).
- (5) The respondent must file six sets of copies of his or her reply to the appellant's papers referred to in subregulation (4) with the registrar within 30 days from the date on which the appellant filed his or her papers with the registrar.
- (6) The appellant must, within 14 days from the date on which the respondent filed his or her reply referred to in subregulation (5), file six sets of copies of his or her reply to that of the respondent.
- (7) If no reply is filed by the appellant within the period referred to in subregulation (6), the registrar must then advise both parties in writing of the date on which the matter will be heard by the appeal committee.
- (8) The appeal committee must consider the appeal on the papers referred to in subregulation (4) and (5), deliberate on the matter and advise the parties of its findings.
- (9) Each party is responsible for his or her own costs occasioned by the preparation for and finalisation of the appeal.

- (10) The decision of the appeal committee is of force and effect from the date determined by such committee, and may be set aside by the High Court on review.
- (11) Notwithstanding the provisions of subregulation (10), a penalty of suspension or removal of the name from the register will have immediate effect.

Continuation of inquiry

- 12. (1) If one or more members of the professional conduct committee is unable to serve at any time after a plea has been lodged, the inquiry must proceed provided that at least two of the original members are available to continue with the inquiry.
- (2) If a chairperson is unable to serve at anytime after a plea has been lodged, the matter may proceed with a new chairperson provided that such a chairperson is given the opportunity to re-examine witnesses who have already testified if he or she deems it necessary.

Accessibility of an inquiry

- 13. (1) The proceedings at the inquiry are open to the public.
- (2) Notwithstanding the provisions of subregulation (1) -
 - (a) any decision of the professional conduct committee in respect of any point arising in connection with, or in the course of an inquiry may be arrived at in camera;
 - (b) any evidence adduced during an inquiry may, on good cause shown or in the discretion of the professional conduct committee, be heard in camera; and
 - (c) the professional conduct committee may, on good cause shown, order that no person may at any time and in any manner publish any information which is likely to reveal the identity of any particular person other than that of the respondent.

- (3) Any person who infringes or fails to comply with an order made in terms of subregulation (2)(c) is guilty of an offence and liable on conviction in a court of law to a fine or imprisonment not exceeding six months or both such a fine or such imprisonment.
- (4) Recordings of all inquiries must be kept by the council and upon written request, a typed written copy of such recording must be made available to the complainant, respondent or any other person who in the opinion of the registrar has a substantial interest in the matter upon payment of the actual cost for making such a copy.

Publication in the *Government Gazette*

14. The registrar must arrange for the publication in the *Government Gazette* of the name of the respondent, a summary of the complaint or charge on which he or she has been found guilty and the penalty which has been imposed in terms of regulation 4(9)(a) or regulation 10(18) of these regulations.

Subpoena

15. A summons for attendance as a witness before a professional conduct committee to give oral evidence or to produce any book, record, document or thing must substantially be in the form as set out in Annexure B attached hereto.

Repeal

16. (1) The regulations published under Government Notice No. R. 765 of 24 August 2001 are hereby repealed.
- (2) An inquiry in terms of the Regulations referred to in subregulation (1) pending before a professional conduct committee of the council or a professional board immediately prior to the commencement of these regulations must be conducted and finalised under the procedures prescribed by those regulations as if such regulations had not been repealed.


Dr ME Tshabalala-Msimang, MP
Minister of Health
28-8-2005

ANNEXURE A

**NOTICE TO APPEAR BEFORE A PROFESSIONAL CONDUCT COMMITTEE OF THE
PROFESSIONAL BOARD FOR**

.....
(name of person and his or her address)

is hereby given notice that an inquiry into your professional conduct will be held by the professional
conduct committee of the Professional Board for

..... at

..... (place)

on (date and time).

The charge sheet as formulated by the pro forma complainant is enclosed.

You may be represented by an attorney, advocate or any other person appointed by yourself at the
inquiry. You should, however, timeously make arrangements in this regard. If you and/or your
representative fail to attend the inquiry on the stipulated date, the inquiry may be proceeded with in
your absence.

Given under the hand of the Registrar, this
day of 20.....

.....
REGISTRAR

ANNEXURE B**SUMMONS TO APPEAR BEFORE A PROFESSIONAL CONDUCT COMMITTEE OF THE
PROFESSIONAL BOARD FOR**

.....
(name of person summoned and his or her address)

is hereby summoned to appear at (place) on
..... (date and time) before the professional conduct
committee of the Professional Board for
established in terms of the Health Professions Act, 1974 (Act No. 56 of 1974), to give evidence in
respect of

.....
.....
.....
(if the person summoned is to produce any book, record, document or thing, add)
and you are hereby directed to produce:

.....
.....
(specify the book, record, document or thing concerned)

Given under the hand of the Registrar, this day of
.....

.....
REGISTRAR

General Explanatory Note:

[]

Words in bold type in square brackets indicate omissions from existing rules.

Words underlined with a solid line indicate insertions in existing rules.

SOUTH AFRICAN REVENUE SERVICE**No. R. 876****9 September 2005****CUSTOMS AND EXCISE ACT, 1964
AMENDMENT OF RULES (NO. DAR/7)**

Under sections 6 and 120 of the Customs and Excise Act, 1964, the rules published in Government Notice R.1874 of 8 December 1995 are amended to the extent set out in the Schedule hereto **with effect from 9 September 2005.**

**PRAVIN JAMNADAS GORDHAN
COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE**

SCHEDULE

(a) by the substitution for rule 120B.01 of the following rule:

"120B.01 The provisions of these rules apply only -

(a) where goods are carried by road or by air between the Republic of South Africa, the Republic of Botswana and the Republic of Namibia; and

(b) where SAD forms are used, if so carried -

(i) by road, at the office of the Controller for Cape Town International Airport, Germiston, Grobler's Bridge, Kopfontein, Nakop, Johannesburg, Johannesburg International Airport, Ramathlabama, Skilpadshek or Vioolsdrift; or

(ii) by air, at the office of the Controller for Cape Town International Airport."

(b) by the substitution for rule 120B.02 of the following rule:

"120B.02 Notwithstanding anything to the contrary in rule 120A.01 or any other rule the SAD 500, SAD 501, SAD 502 and SAD 503 must be used instead of form CCA1 only where such goods are carried **[by road]** as contemplated in rule 120B.01."

(c) by the substitution for rule 120B.05 of the following rule:

- "120B.05** (a) Notwithstanding rule 120B.02, users of form CCA1 at Nakop and Vioolsdrift may use existing stock until 1 November 2005; and
- (b) users of form CCA1 at Cape Town International Airport may use existing stock until 9 November 2005."
-

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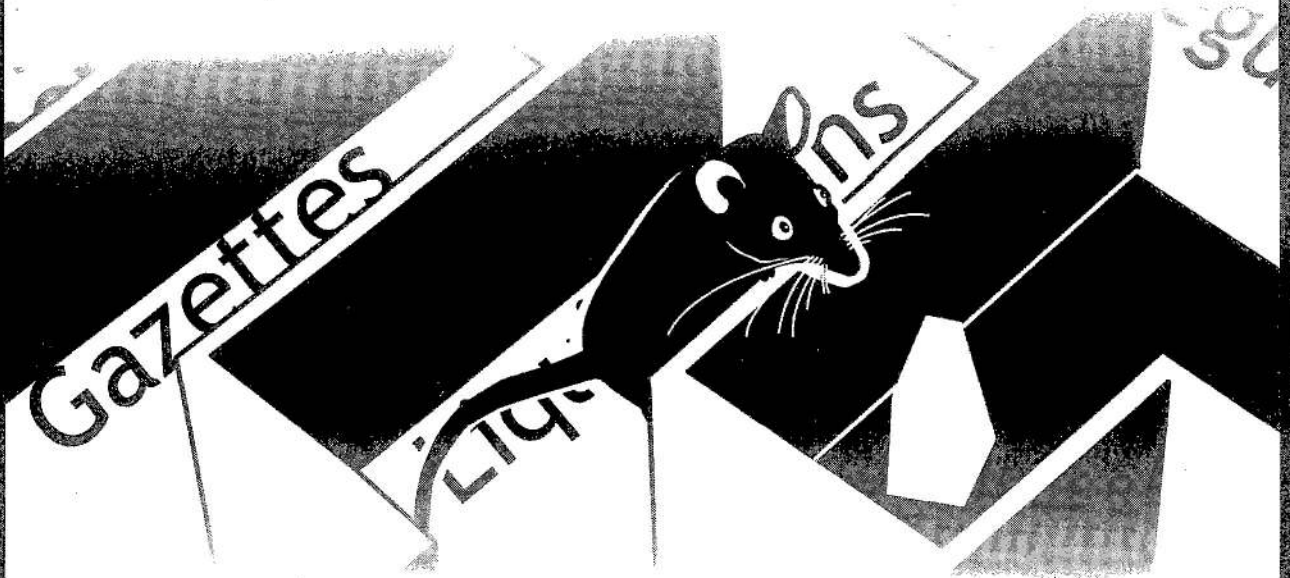
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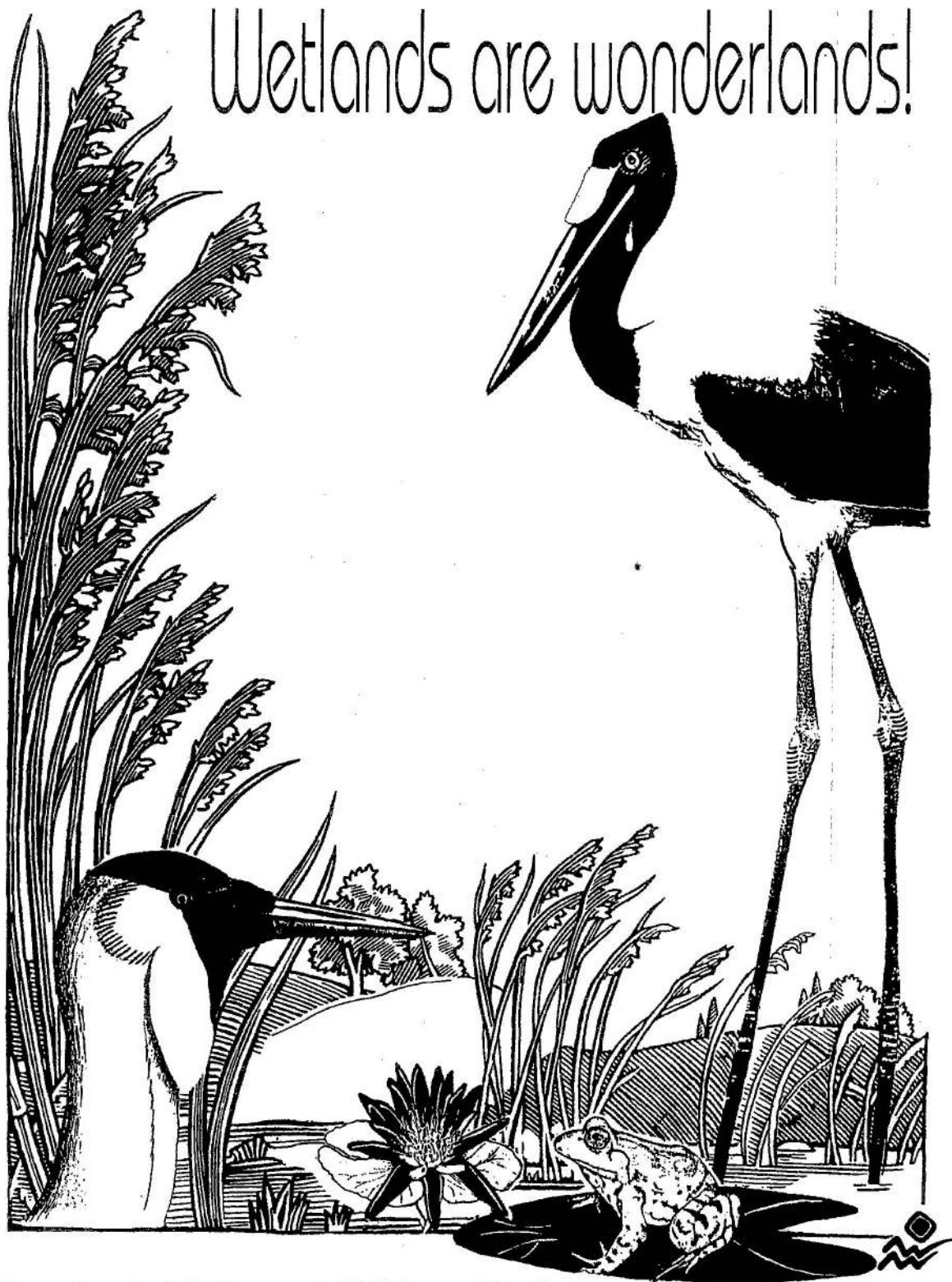
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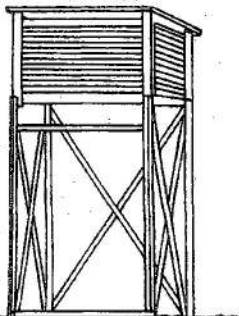
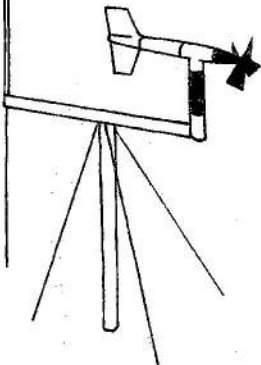


Wetlands are wonderlands!

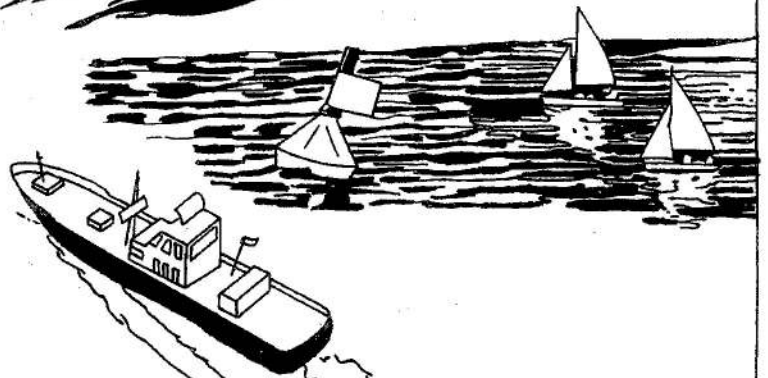
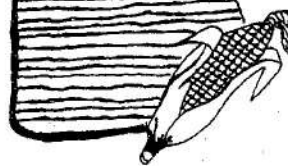
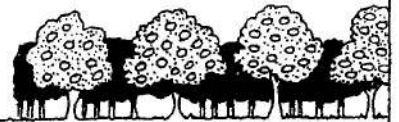
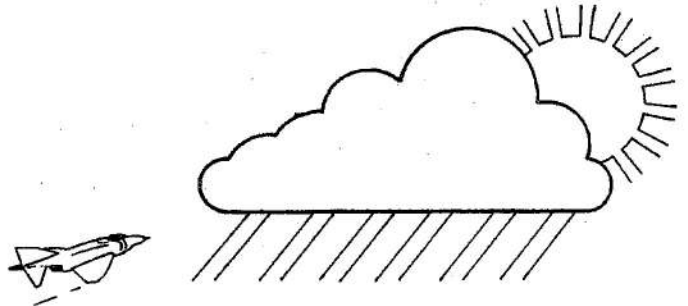


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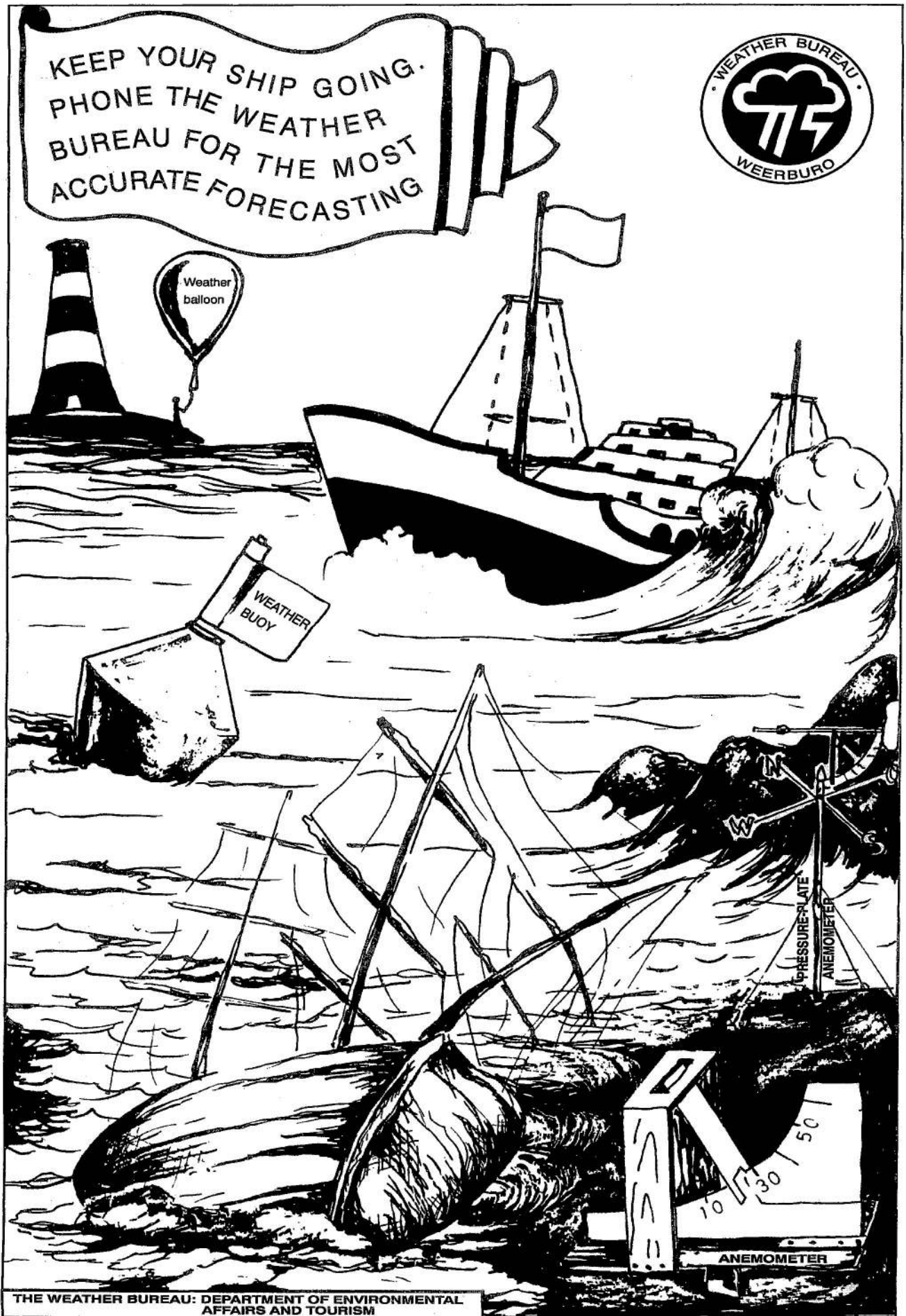
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