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GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

DEPARTMENT OF LABOUR DEPARTEMENT VAN ARBEID

No. R. 551

17 April 2003

LABOUR RELATIONS ACT, 1995

METAL AND ENGINEERING INDUSTRY BARGAINING COUNCIL: EXTENSION OF COLLECTIVE BARGAINING LEVY 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 22 April 2003 and for the period ending 31 December 2007.

No. R. 551

17 April 2003

METAAL-EN INGENIEURSNYWERHEDE BEDININGSRAAD: UITBREIDING VAN KOLLEKTIEWE BEDINGINGSHEFFING KOLLEKTIEWE OOREENKOMS NA NIE-PARTYE

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, verklaar hierby dat ingevolge artikel 32(2) van die Wet of Arbeidsverhoudinge, 1995, die kollektiewe ooreenkoms in die Bylae, wat aangegaan is in die Metaal-en Ingenieursnywerhede Bediningsraad, bindend is in terme van artikel 31 van die Wet op Arbeidsverhoudinge, 1995, op die partye tot die ooreenkoms en op die ander werkgewers en werknemers in daardie nywerheid wat nie partye tot die ooreenkoms is nie, vanaf 22 April 2003 tot 31 Desember 2007.

MINISTER VAN ARBEID

SCHEDULE

METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL

COLLECTIVE BARGAINING LEVY COLLECTIVE AGREEMENT

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

Association of Electrical Cable Manufacturers of South Africa
Association of Metal Service Centres of South Africa
Babelegi Metal Industries Association
Border Industrial Employers' 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
Electrical 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
Non-ferrous Metal Industries' Association of South Africa
Plastic Convertors' 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
Small Enterprise Employers of South Africa (SEESA)
S.A. Electro-plating Industries' Association

S.A. Engineers' and Founders' Association
S.A. Fasteners' Manufacturers' Association (SAFMA)
S.A. Refrigeration and Air Conditioning Contractors' Association (SARACCA)
S.A. Post Tensioning Association (SAPTA)
S.A. Pump Manufacturers' Association
S.A. Reinforced Concrete Engineers' Association (SARCEA)
S.A. Tube Makers' Association
S.A. Valve and Actuator Manufacturers' Association
S.A. Wire and Wire Rope Manufacturers' Association

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

Chemical, Energy, Paper, Printing, Wood and Allied Workers' Union (CEPPWAWU)
Metal and Electrical Workers' Union of South Africa
M.W.U. Solidarity
National Employees' Trade Union
National Union of Metalworkers of South Africa (NUMSA)
S.A. Equity Workers' Association

(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.

1. SCOPE OF APPLICATION OF AGREEMENT

- (1) The terms of this Agreement shall be observed –
 - (a) throughout the Republic of South Africa; and
 - (b) by all the employers and employees in the Iron, Steel, Engineering and Metallurgical Industries who are members of the employers' organisations and the trade unions, respectively.
- (2) Notwithstanding the provisions of sub-clause (1), the terms of this Agreement shall not apply to –
 - (a) the production of iron and/or steel and/or ferro-alloys;
 - (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 Johannesburg, Boksburg, Vereeniging and Pietermaritzburg;

- (c) the installation, maintenance and repair of electrical equipment referred to in paragraph (b) of the definition of "Electrical Engineering Industry" in clause 3 of Part I of the Main Agreement published under Government Gazette Notice No. R.404 of 31 March 1998, in the Provinces of the Cape of Good Hope and the Orange Free State;
- (d) 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, which are primarily intended for use in accounting and/or business and/or calculating and/or office and/or educational procedures;
- (e) the Venetian Blind and Allied Products' Manufacturing Industry in the Province of Transvaal;
- (f) the installation and/or repair of burglar and/or other similar alarm systems in the Provinces of the Cape of Good Hope and the Orange Free State;
- (g) 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;
- (h) 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;
- (i) the installation and/or repair and/or servicing of radios and/or refrigerators and/or domestic electrical appliances in the Provinces of the Cape of Good Hope and the Orange Free State;
- (j)
 - (i) the manufacture by mass production methods from sheetmetal of a gauge not heavier than 2,108 mm of –
 - (aa) commercial, plain, or lithographed containers for the packaging of general merchandise, but excluding the manufacture of such containers by any person for the packaging of his own products;
 - (ab) bottle, jar and other container closures;
 - (ac) plain or lithographed metal toys;
 - (ad) plain or lithographed display tablets;
 - (ii) the manufacture of plain or lithographed rigid and/or collapsible tubes from non-ferrous metal slugs. For the purposes of this sub-paragraph,

"rigid tube" means a container, and for the purposes of sub-paragraphs (i) and (ii) a "container" means a plain or lithographed article designed for the packaging, for transport or sale of products, and capable of being closed by means of a lid or cap or any other type of closure;

- (k) the manufacture from tinplate 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 tinplate;
 - (l) the manufacture of aluminium sheet and/or foil, and interrelated operations;
 - (m) 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;
 - (n) the undertaking of Billiton Aluminium S.A. (Pty) Ltd, in the Magisterial District of Lower Umfolozi.
- (3) Notwithstanding the provisions of sub-clause (1), the terms of this Agreement shall apply to –
- (a) apprentices only in so far as they are not inconsistent with the provisions of the Manpower Training Act, 1981, or learners in accordance with the provisions of the Skills Development Act, 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 they are not inconsistent with the provisions of that Act or any conditions fixed thereunder and/or learners in accordance with the provisions of the Skills Development Act, 1998.
- (4) Clauses 1(1)(b) and 2 of this Agreement shall not apply to employers and employees who are not members of the employers' organisations and trade unions, respectively.

2. PERIOD OF OPERATION OF AGREEMENT

This Agreement shall come into operation on such date as may be fixed by the Minister of Labour in terms of section 32 of the Labour Relations Act, 1995, and shall remain in force until 31 December 2007.

3. DEFINITIONS

Any expression used in this Agreement which is defined in the Labour Relations Act, 1995, shall have the same meaning as in that Act, and any reference to an Act shall include any

amendment to such Act, and unless the contrary intention appears, words importing the masculine gender shall include females; further, unless inconsistent with the context –

“Act” means the Labour Relations Act, 1995 (Act No. 66 of 1995);

“apprentice” means an employee serving under a written contract of apprenticeship recognised by the Council, or a contract of apprenticeship registered under the Manpower Training Act, 1981;

“collective bargaining levy” means the fee as set out in clause 4 of this Agreement;

“Council” means the Metal and Engineering Industries Bargaining Council, registered in terms of section 29 of the Act;

“Electrical Contracting Industry” means the Industry in which employers and their employees are associated for any or all of the following:

- (a) the design, preparation, erection, installation, repair and maintenance of all electrical equipment forming an integral and permanent part of buildings or structures, including any wiring, cable jointing and laying and electrical overhead line construction, and all other operations incidental thereto, whether the work is performed or the material is prepared on the site of the buildings or structures or elsewhere;
- (b) the design, preparation, erection, installation, repair and maintenance of all electrical equipment incidental to the purpose for which a building or structure is used, including any wiring, cable jointing and laying and electrical overhead line construction, and all other operations incidental thereto, whether the work is performed or the material is prepared on the site of the buildings or structures or elsewhere;
- (c) the design, preparation, erection, installation, repair and maintenance of all electrical equipment incidental to the construction, alteration, repair and maintenance of buildings or structures, including any wiring, cable jointing and laying and electrical overhead line construction, and all other operations incidental thereto, whether the work is performed or the material is prepared on the site of the buildings or structures or elsewhere;

“Electrical Engineering Industry” means the Industry in which employers and their employees are associated for any one or more of the following:

- (a) the manufacture and/or assembly from component parts of electrical equipment, namely generators, motors, convertors, switch and control gear (including relays, contractors, electrical instruments and equipment associated therewith), electrical lighting, heating, cooking, refrigeration and cooling equipment, transformers, furnace equipment, signalling equipment, radio or electronic equipment, including monitors;

and other equipment utilising the principles used in the operation of radio and electronic equipment, the latter equipment including, but not limited to, television, and further, incandescent lamps and electric cables and domestic electrical appliances, and also includes the manufacture of component parts of the aforementioned equipment;

- (b) subject to paragraph (c) hereunder, the installation, maintenance, repair and service of the equipment referred to in paragraph (a) above in the Provinces of the Transvaal and Natal, but does not include the Electrical Contracting Industry;
- (c) the installation, maintenance, repair and service of television sets and monitors, excluding the installation, maintenance, repair and service of such in the Province of the Cape of Good Hope, and excluding in respect of the whole of the Republic of South Africa, the installation, maintenance, repair and service of monitors primarily intended for use in accounting and/or data processing and/or business procedures;

"employee" means:

- (a) any person employed or engaged in the Iron, Steel, Engineering and Metallurgical Industries whose wages are scheduled in the Agreements listed in paragraphs (e)(i) and (ii) hereof, or, if any of the said Agreements have expired, were scheduled therein;
- (b) apprentices, trainees and watchmen, irrespective of their wage rates;
- (c) persons engaged in operative processes whose wage rates may not be scheduled in the Agreements listed in paragraphs (e)(i) and (ii) hereof;
- (d) in relation to this Agreement, subject to any definition of "employee" contained in any agreement administered by the Council in terms of sections 31 and 32 of the Act, means any person who is employed by or who works for any employer and who receives or is entitled to receive any remuneration;
- (e) any other person who in any manner assists in the carrying on or conducting of the business of the employer, and "employed" and "employment" have corresponding meanings;
 - (i) The following Agreements were published in terms of section 32 of the Act:
 - (aa) Main Collective Agreement published under Government Gazette Notice No. R.404 of 31 March 1998, including any succeeding Main Collective Agreement;
 - (ab) Lift Engineering Collective Agreement published under Government Gazette Notice No. R.405 of 31 March 1998, including any succeeding Lift Engineering Collective Agreement.

"establishment" means any premises wherein or whereon the industries, or part thereof, as herein defined, are carried on, subject to any demarcation determination made in terms

of section 76 of the Labour Relations Act, 1956 and/or section 62 of the Labour Relations Act, 1995;

"General Engineering and Manufacturing Engineering and Metallurgical Industries"

means the Industries concerned with the maintenance, fabrication, erection or assembly, construction, alteration, replacement or repair of any machine, vehicle (other than a motor vehicle) or article consisting mainly of metal (other than a precious metal), or parts or components thereof, and structural metalwork, including steel reinforcement work, and the manufacture of metal goods principally from such iron and/or steel and/or other metals (other than precious metals) and/or alloys, and the finishing of metal goods, but does not include the Motor Industry; and

"precious metals" means the precious metals gold, silver, platinum and/or palladium and/or any alloy containing the said precious metals, or any of these in such proportion with any other metals as to be the greater part in value of such alloy;

"Iron, Steel, Engineering and Metallurgical Industries" means the Industries concerned with –

- (a) the production of iron and/or steel in the Province of the Transvaal and the Magisterial Districts of Newcastle, Durban, Camperdown and Kuils River;
- (b) the production of alloys and/or the processing and/or recovery and/or refining of metals (other than precious metals) and/or alloys from dross and/or scrap and/or residues in the Republic of South Africa;
- (c) the General Engineering and Manufacturing Engineering and Metallurgical Industries in the Republic of South Africa;
- (d) the building and/or alteration and/or repair of boats and/or ships, including the scrapping, chipping or scaling and/or painting of their hulls, and general woodwork undertaken in connection with ship repairs in the Republic of South Africa;
- (e) the Electrical Engineering Industry as defined hereinafter;
- (f) the Lift and Escalator Industry in the Republic of South Africa;
- (g) the Plastics Industry in the Republic of South Africa;

"law" includes the common law;

"Lift and Escalator Industry" means the Industry concerned with the manufacture and/or assembly and/or installation and/or repair of electrical lifts and escalators;

"Locksmithing Trade" means the trade in which employers and their employees are associated for the opening and closing of locks for others by means other than with the keys normally used; the repair, replacement, rebuilding or adjustment of locks and their mechanical parts; the manufacture, by non-repetitive methods, of parts designed for use in locks; and the cutting of keys, but excluding the manufacture of locks and keys;

"machine" means any appliance, irrespective of the material of which it is made, but does not include an agricultural tractor;

"metal goods" does not include agricultural tractors;

"Motor Industry" means (subject to the provisions of any demarcation determinations made in terms of section 76 of the Labour Relations Act, 1956 and/or section 62 of the Labour Relations Act, 1995) –

- (a) assembling, erecting, testing, remanufacturing, repairing, adjusting, overhauling, wiring, upholstering, spraying, painting and/or reconditioning carried on in connection with:
 - (i) chassis and/or bodies of motor vehicles;
 - (ii) internal combustion engines and transmission components of motor vehicles;
 - (iii) electrical equipment connected with motor vehicles, including radios;
- (b) automotive engineering;
- (c) repairing, vulcanising and/or retreading tyres;
- (d) repairing, servicing and reconditioning batteries for motor vehicles;
- (e) the business of parking and/or storing motor vehicles;
- (f) the business conducted by filling and/or service stations;
- (g) the business carried on mainly or exclusively for the sale of motor vehicles or of motor vehicle parts and/or spares and/or accessories (whether new or used) pertaining thereto, whether or not such sale is conducted from the premises which are attached to a part of an establishment in which the assembly or repair of motor vehicles, is carried on;
- (h) the business of motor graveyards;
- (i) the business of assembly establishments;
- (j) the business of manufacturing establishments in which motor vehicle parts and/or spares and/or accessories and/or components thereof are manufactured;
- (k) vehicle body building;
- (l) for the purpose of this definition,

"automotive engineering" means the reconditioning of internal combustion engines or parts thereof for use in motor vehicles in establishments mainly or exclusively so engaged, whether such establishments dismantle and repair motor vehicles or not;

"motor vehicle" means any wheeled conveyance propelled by electrical or mechanical power (other than steam) and designed for haulage and/or for the transportation of persons and/or goods and/or loads, including trailers and caravans, but does not include any equipment designed to run on fixed tracks, trailers designed to transport loads of 27 273 kilograms or over, or aircraft;

"vehicle body building" means any or all of the following activities carried on in a vehicle body building establishment:

- (a) the construction, repair or renovation of cabs and/or bodies and/or any superstructure, for any type of vehicle;
- (b) the manufacture and/or repair of component parts for cabs and/or bodies and/or any superstructure and the assembling, adjusting and installation of parts in cabs, bodies or on the superstructure of vehicles;
- (c) fixing cabs and/or bodies and/or any superstructure to the chassis of any type of vehicle;
- (d) coating and/or decorating cabs and/or bodies and/or any superstructure with any preservative or decorative substance;
- (e) equipping, furnishing and finishing off the interior of cabs and/or bodies and/or superstructures;
- (f) building trailers, excluding the manufacture of wheels or axles therefore;
- (g) all operations incidental to or consequent upon the activities referred to in paragraphs (a) to (f) above, and for the purposes of this definition, "vehicle" does not include an aircraft;

"Motor Industry" as defined above does not include the following:

- (a) the manufacture of motor vehicle parts and/or accessories and/or spares and/or components in establishments laid out for and normally producing metal and/or plastic goods of a different character on a substantial scale;
- (b) the assembling, erecting, testing, repairing, adjusting, overhauling, wiring, spraying, painting and/or reconditioning of agricultural tractors, except where carried on in establishments rendering similar service in respect of motor cars, motor lorries or motor trucks;
- (c) the manufacture and/or maintenance and/or repair of:
 - (i) civil and mechanical engineering equipment and/or parts thereof, whether or not mounted on wheels;
 - (ii) agricultural equipment or parts thereof;
 - (iii) equipment designed for use in factories and/or workshops;

Provided that for the purpose of (i), (ii) and (iii) above, "equipment" shall not be taken to mean of motor cars, motor lorries or motor trucks.

- (iv) motor vehicles or other vehicle bodies and/or superstructures and/or parts or components thereof made of steel plate of 3,175 mm thickness or thicker, when carried on in establishments laid out for and normally engaged in the manufacture and/or maintenance and/or repair of civil and/or mechanical engineering equipment on a substantial scale;

"plastic" means any one of the group of materials that consists of or contains as an essential ingredient an organic substance of a large molecular weight and which, while solid in the finished state, at some stage in its manufacture has been or can be forced, i.e. cast, calendered, extruded or moulded into various shapes by flow, usually through the application, singly or together, of heat or pressure;

"Plastics Industry" means the Industry concerned with the conversion of thermoplastic and/or thermosetting polymers, including the compounding or recycling thereof, or the manufacture of articles or parts of articles wholly or mainly made of such polymers into rigid, semi rigid or flexible form, whether blown, moulded, extruded, cast, injected, formed, calendered, coated, compression moulded or rotational moulded, including in-house printing on such plastics by the manufacturers, and all operations incidental to these activities;

"Region A" means the Magisterial Districts of Beaufort West, Belville, Bredasdorp, Caledon, Calvinia, Carnarvon, Clanwilliam, Ceres, Fraserburg, George, Goodwood, Heidelberg (CP), Hermanus, Hopefield (CP), Knysna, Kuils River, Ladismith (CP), Laingsburg, Malmersbury, Mitchells' Plain, Montagu, Moorreesburg, Mossel Bay, Namaqualand, Paarl, Piketberg, Prince Albert, Riversdale, Robertson, Simonstown, Somerset West, Stellenbosch, Strand, Sutherland, Swellendam, The Cape, Tulbach, Vanryhnsdorp, Victoria West, Vredenburg, Vredendal, Wellington, Williston, Worcester and Wynberg, and for the purposes of these particular areas the address of the Regional Council shall be: Metal and Engineering Industries Bargaining Council (Cape Regional Council), PO Box 6096, Roggebaai 8012, or Room 507, Pearl Assurance House, Heerengracht, Foreshore, Cape Town 8001;

"Region B" means the Magisterial Districts of Albert, Aliwal North, Barkly East, Cathcart, East London, Elliot, Indwe, King William's Town, Komga, Lady Grey Maclear, Molteno, Queenstown, Sterkstroom, Stutterheim, Tarkastad and Wodehouse, and for the purposes of these particular areas the address of the Regional Council shall be: Metal and Engineering Industries Bargaining Council (Border Regional Council), PO Box 13162, Vincent 5217, or First Floor, 12 St Georges Road, Southernwood 5201;

"Region C" means the Province of Natal, and for the purposes of this particular area the address of the Regional Council shall be: Metal and Engineering Industries Bargaining Council (Natal Regional Council), PO Box 5900, Durban 4000, or 11th Floor, Sangro House, 417 Smith Street, Durban 4001;

"Region D" means the Magisterial Districts of Aberdeen, Adelaide, Albany, Alexandria, Bathurst, Bedford, Calitzdorp, Colesberg, Cradock, Fort Beaufort, Graaff-Reinet, Hankey, Hanover, Hofmeyr, Humansdorp, Jansenville, Joubertina, Kirkwood, Middelburg (CP), Murraysburg, Noupoort, Oudtshoorn, Pearson, Port Elizabeth, Richmond (CP), Somerset

East, Steytlerville, Steynsburg, Uniondale, Uitenhage, Venterstad and Willowmore, and for the purposes of these particular areas the address of the Regional Council shall be: Metal and Engineering Industries Bargaining Council (Midlands Regional Council), PO Box 12848, Centrahill 6006, or First Floor, 30 Pearson Street, Central, Port Elizabeth 6001;

"Region E" means the Province of the Transvaal, excluding the Magisterial Districts of Bloemhof, Christiana, Coligny, Delareyville, Klerksdorp, Lichtenburg, Potschefstroom, Schweizer-Reneke, Ventersdorp and Wolmaranstad, and for the purposes of this particular area the address of the Regional Council shall be: Metal and Engineering Industries Bargaining Council (Transvaal Regional Council), PO Box 3998, Johannesburg 2000, or Engineering Industrial Council House, 5 Andrea Road, Reuven, Boysens, Johannesburg 2091;

"Region F" means the Province of the Orange Free State, and includes the Magisterial Districts of Bloemhof, Christiana, Coligny, Delareyville, Klerksdorp, Lichtenburg, Potschefstroom, Schweizer-Reneke, Ventersdorp and Wolmaranstad in the Province of Transvaal, and the Magisterial Districts of Barkly West, Britstown, De Aar, Douglas, Gordonia, Griekwastad, Hartswater, Hopetown, Kenhardt, Kimberley, Kuruman, Postmasburg, Phillipstown, Prieska, Vryburg and Warrenton in the Cape Province, and for the purposes of this particular area the address of the Regional Council shall be: Metal and Engineering Industries Bargaining Council (Orange Free State and Northern Cape Regional Council), PO Box 95, Welkom 9460, or 136 Constantia Road, Welkom 9459.

"Venetian Blind and Allied Products Manufacturing Industry" means the Industry in which employers and their employees are associated for the carrying on of any one or more of the following activities, in the Province of Transvaal:

The design and/or assembly and/or manufacture of –

- (a) venetian blinds, whether manufactured of wood, metal, bamboo, cloth or synthetic materials and/or
- (b) any other type of blind manufactured of such materials and/or
- (c) any other article or articles providing or used for sun control, other than articles manufactured wholly or mainly from plastic: Provided that the first-mentioned articles are intended for use in the interior of buildings and/or
- (d) folding doors containing wood, cloth, leather, leather cloth or any synthetic material with a wooden, synthetic wood or metal framework, but excluding canvas awnings, canvas sunblinds and Holland blinds; and for the purposes of this definition "canvas" means a woven material made from cotton flax, jute, hemp or similar decorticated vegetable or acrylic fibres or mixtures thereof;

"watchman's work" means guarding and/or patrolling property and/or premises;

"welding electrodes" means any flux-coated or cored filler metal made from ferrous or non-ferrous material in stick or continuous form used in electric arc welding.

4. COLLECTIVE BARGAINING LEVY

4.A EMPLOYEES

- (1) An agency shop agreement in terms of section 25 of the Labour Relations Act, 1995, is hereby introduced. The object of this Agreement is to ensure that all employees who receive the benefits of collective bargaining contribute towards its costs.
- (2) Subject to provisions of this clause a levy, to be known as a collective bargaining levy, shall be deducted by employers from the wages of all employees who are employed in the Industry on scheduled activities covered by the Metal and Engineering Industries Bargaining Council Main Collective Agreement and who are not members of a trade union which is a party trade union to the Metal and Engineering Industries Bargaining Council.
- (3) Any existing agency shop agreement at company level shall be superseded by this Agreement.
- (4) The collective bargaining levy shall be equivalent to 1% (one percentum) of the employee's weekly wage.
- (5)
 - (a) Every employer shall complete the Collective Bargaining Levy Return Form and return it together with the amount payable each month, to reach the Council at its Central Funds Collection Office (CEFCO), 2nd Floor, Metal Industries House, 42 Anderson Street, Johannesburg 2001, by no later than close of business on the 15th day of the subsequent month.
 - (b) The employer uses the postal services, courier service or any other means of delivery or transfer at his own risk. The relevant postal address is PO Box 61474, Marshalltown 2107. A facility for direct bank-to-bank transfer of funds is also available – inquiries to be directed to the Financial Manager at the above address or 011-870 2000.
- (6) The Secretary of the Council shall deposit all monies received in terms of sub-clause (5) into a bank account administered by the Council.
- (7) The Secretary of the Council shall, not later than the 10th day of each month, transmit to the trade unions which are party to the Council in proportion to the number of members of each trade union, the collective bargaining levies received by the Council during the preceding month. The unions shall, on receipt, pay such amounts into a separate account administered by the respective unions.
- (8) The levy may not be used –
 - (a) to pay an affiliation fee to a political party;
 - (b) to make a contribution in cash or kind to a political party or a person standing for election to any political office; or
 - (c) for any expenditure that does not advance or protect the socio-economic interests of employees.

- (9) A change in the collective bargaining levy shall be implemented by the employer in the pay period following receipt of the notification from the Secretary of the Council and shall not be retrospective.
- (10) The collective bargaining levy shall be deducted by an employer for as long as the party unions represent a majority of the employees covered by this Agreement.
- (11) Employees who are not members of the party trade unions are not required or compelled to become members of those trade unions.
- (12) The provisions of sections 98, 100(b) and (c) of the Act apply, read with the changes required by the context, to the separate accounts referred to in sub-clause (7).

4.B EMPLOYERS

- (13) Every employer who is not a member of an employers' organisation party to the Metal and Engineering Industries Bargaining Council (a non-party employer) who is engaged in the Industry as defined, shall pay a monthly collective bargaining levy to the Council in an amount calculated in terms of sub-clause (14).
- (14) The amount of the monthly collective bargaining levy is R150 (one hundred and fifty rand) per month.
- (15)
 - (a) Every non-party employer shall complete the Collective Bargaining Levy Return Form and return it together with the amount payable each month in terms of sub-clause (13) hereof together with a statement in such form as may be specified from time to time, to reach the Council at its Central Funds Collection Office (CEFCO), 2nd Floor, Metal Industries House, 42 Anderson Street, Johannesburg 2001, by no later than close of business on the 15th day of the subsequent month.
 - (b) The non-party employer uses the postal services, courier service or any other means of delivery or transfer at his own risk. The relevant postal address is PO Box 61474, Marshalltown 2107. A facility for direct bank-to-bank transfer of funds is also available – inquiries to be directed to the Financial Manager at the above address or 011-870 2000.
- (16) The Secretary of the Council shall, not later than the 10th day of each month, transmit to the party employers' organisations or such other body as these party employers' organisations may nominate, in proportion to the number of members of each employers' organisation the total of the collective bargaining levies received by the Council during the preceding month. The party employers' organisations or such other body as these party employers' organisations may nominate shall, on receipt, pay such amounts into a separate account administered by the respective employers' organisations.
- (17) The levy may not be used –
 - (a) to pay an affiliation fee to a political party;
 - (b) to make a contribution in cash or kind to a political party or a person standing for election to any political office; or
 - (c) for any expenditure that does not advance or protect the socio-economic interests of employees.
- (18) The provisions of sections 98, 100(b) and (c) of the Act apply, read with the changes required by the context, to the separate accounts referred to in sub-clause (16).

5. EXEMPTIONS

- (1) (a) Any employer, employers' organisation or employee may apply in writing to the Council for an exemption from the provisions of this Agreement on the grounds that the employer, employers' organisation or employee conscientiously objects to being associated with secular associations or paying contributions to secular associations or that the employees or employers are members of a registered trade union or employers' organisation, respectively, not party to the Council.

Should such exemption be granted the levies will be paid into a separate fund administered by the Department of Labour in terms of section 25(4)(b) of the Act.

- (b) Such exemptions shall be considered by a national exemptions committee to be established for this purpose.

(2) Fundamental principles for consideration

- (a) All applications must be in writing and fully motivated and sent to the Head Office of the Council.
- (b) In scrutinising an application for exemption the national committee will consider the views expressed, together with any other representations received in relation to that application.

(3) Process

- (a) The Council shall issue to every person to whom exemption has been granted an exemption licence, setting out the following:
- (i) the full name of the person or enterprise concerned;
 - (ii) the provisions of this Agreement from which the exemption has been granted;
 - (iii) the conditions subject to which exemption is granted;
 - (iv) the period of the exemption;
 - (v) the date from which the exemption shall operate and
 - (vi) the area in which the exemption applies.
- (b) The Council shall ensure that:
- (i) all exemption licences issued are numbered consecutively;
 - (ii) an original copy of each licence is retained by the Council and
 - (iii) a copy of the exemption licence is sent to the applicant.

- (c) Unless otherwise specified in the licence of exemption, any exemption from this Agreement shall be valid only in the region of the Council in which the application was made.
- (d) The Council may withdraw the exemption at its discretion.

(4) Appeals

- (a) The Council Secretary will on receipt of an appeal against a decision of the Council submit it to the Independent Exemptions Appeal Board for consideration and finalisation.
- (b) An independent body, referred to as the Independent Exemptions Appeal Board (the Board), is hereby appointed and shall consider any appeal against an exemption granted or refused by the Council, or a withdrawal of an exemption.
- (c) In considering an appeal the Board shall consider the recommendations of the Council, any further submissions by the employer and the workforce or their respective employers' organisations or trade unions, and shall take into account the criteria set out above and also any other representations received in relation to the application.
- (d) Should the appeal be granted a licence of exemption shall be issued in terms of sub-clauses (3)(a) and (b) and shall be subject to sub-clauses (3)(c) and (d) above.

6. RESOLUTION OF DISPUTES

Any dispute about the interpretation, application or enforcement of this Agreement shall be referred to the Council and shall be dealt with in accordance with the provisions contained in the Metal and Engineering Industries Bargaining Council Dispute Resolution Collective Agreement published under Government Gazette Notice No. R.406 of 31 March 1998.

Thus signed at Johannesburg, for and on behalf of the parties, this 2 October 2002.

L MTHIYANE

Member

DA CARSON

Member

L KELLY

Acting Council Secretary

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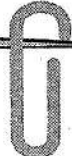
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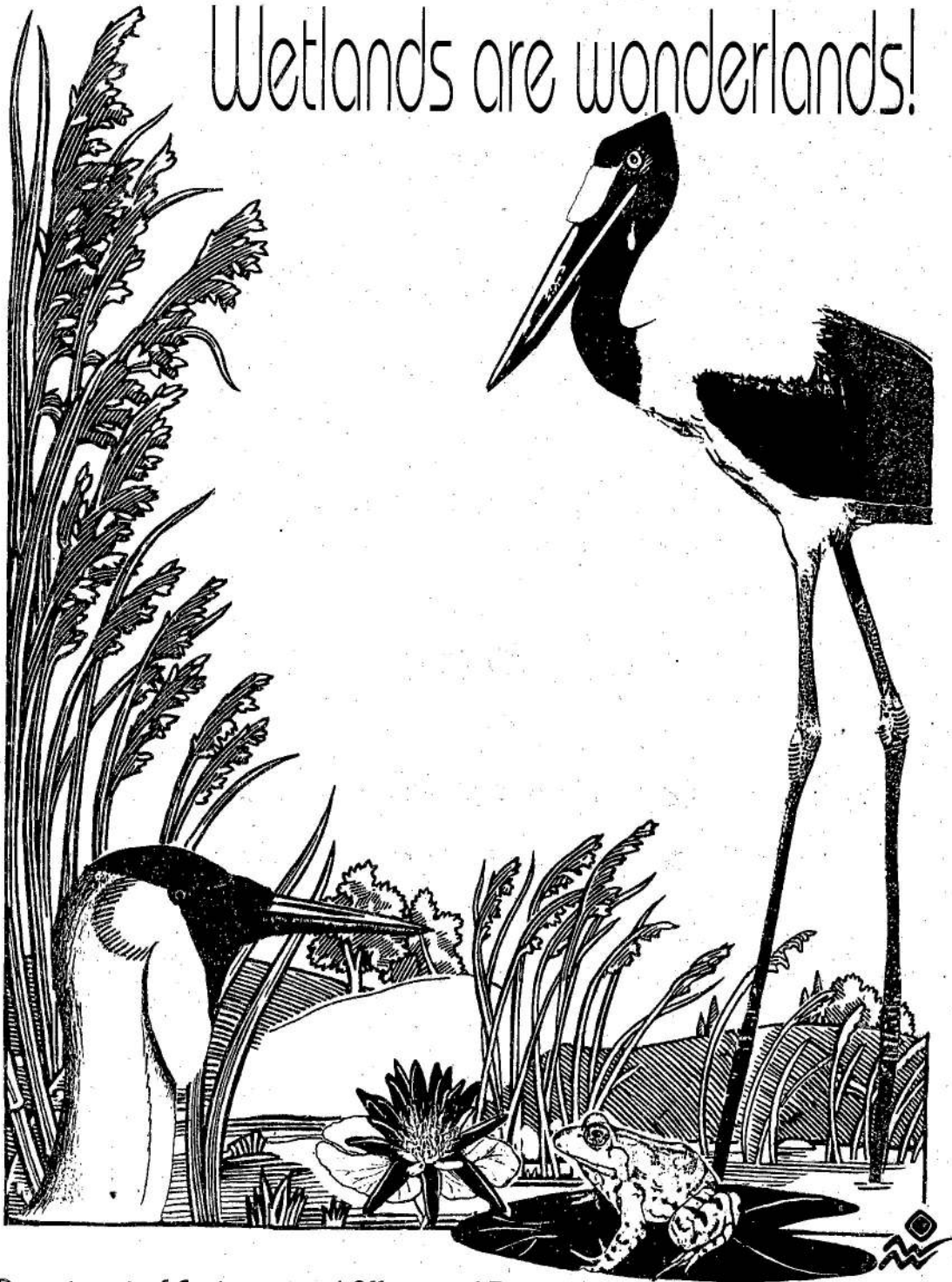
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