

DEPARTMENT OF LABOUR


NO. R. 41

22 JANUARY 2016


LABOUR RELATIONS ACT, 1995

**NATIONAL BARGAINING COUNCIL FOR THE WOOD AND PAPER SECTOR:
EXTENSION OF PERIOD OF OPERATION OF THE DISPUTE RESOLUTION LEVY
AND REGISTRATION OF EMPLOYERS COLLECTIVE AGREEMENT**

I, **MILDED NELISIWE OLIPHANT**, The Minister of Labour, hereby, in terms of section 32(6)(a)(i) of the Labour Relations Act, 1995, extend the period fixed in Government Notices Nos. R. 687 of 21 July 2006, R. 1152 of 24 November 2006, R. 591 of 22 July 2011, R. 132 of 24 February 2012, R. 504 of 6 July 2012, R. 73 of 7 February 2014 and R. 773 of 10 October 2014 by a further period ending 31 December 2018.


MINISTER OF LABOUR
04/01/2016

ngelula isikhathi sokusebenza kwesivumelwano esinqunywe kwiZaziso zikaHulumeni ezinguNombolo R.687 somhlaka 21 kuNtulikazi 2006, R.1152 somhlaka 24 kuLwezi 2006, R.591 somhlaka 22 kuNtulikazi 2011, R.132 somhlaka 24 kuNhlolanja 2012, R.504 somhlaka 6 kuNtulikazi 2012, R.73 somhlaka 7 kuNhlolanja 2014 kanye nesingu R.773 somhlaka 10 kuMfumfu 2014 ngesikhathi esingeziwe esiphela mhlaka 31 kuZibandlela 2018.


UNGQONGQOSHE WEZABASEBENZI
04/01/2016

SCHEDULE**NATIONAL BARGAINING COUNCIL FOR THE WOOD AND PAPER SECTOR****AMENDMENT OF THE DISPUTE RESOLUTION LEVY AND REGISTRATION OF EMPLOYERS COLLECTIVE AGREEMENT**

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

Employers' Association for the Fibre and Particle Board Industry

Employers' Association for the Pulp and Paper Industry

Employers' Association for the Sawmilling Industry

(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)

United Association of South Africa (UASA)

Solidariteit/Solidarity

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

being parties to the National Bargaining Council for the Wood and Paper Sector to amend the Agreement published under Government Notice No. R. 687 of 21 July 2006 as corrected, extended and renewed by Government Notices No. R. 1152 of 24 November 2006, R. 591 of 22 July 2011, R. 132 of 24 February 2012, R. 504 of 6 July 2012, R. 73 of 7 February 2014 and R. 773 of 10 October 2014.

1. SCOPE OF THE AGREEMENT

- (1) The terms of this agreement shall be observed-----
- (a) in the Wood and Paper Sector throughout the Republic of South Africa as defined in the registered scope of the council here below;
 - (b) by all employers who are members of the party employers' organisations and by all employees who are members of the party trade unions.
 - (c) By all other employers and employees who are involved in the Wood and Paper Sector

- (2). The provisions of Clause 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.

2. PERIOD OF OPERATION OF AGREEMENT

This Agreement came into operation for parties on the date of signature thereof and for non-parties on a date to be determined by the Minister of Labour in terms of section 32 of the Act and shall remain in force until 31 December 2018

3. CLAUSE 4: DEFINITIONS

Insert the following introduction to this clause:

"Any expressions used in this Agreement which are defined in the Labour Relations Act, 1995, shall have the same meaning as in the Act, and reference to an Act shall include any amendments to such Act, further, unless inconsistent with the context---"

Insert the following definition after the definition of general secretary

"Industry / Sector" means the industry/sector as defined in the certificate of registration of the Council.

Substitute the following for the definition of wood and paper sector

A. Fibre and Particle Board Sector

"Fibre and Particle Board Sector" means the manufacture of wood and bagasse-based fibreboard and particleboard panels in both raw and upgraded form, and includes the upgrading of such product by the application of the same and/or other material, and includes activities incidental thereto.

B. Sawmilling Sector

- (a) "The Sawmilling Sector" means the sector concerned with the processing of timber or log to lumber, beams, planks, baulks, sleepers, wedges or other standard forms by removing the bark, splitting, cutting up, sawing, drying, planning or conversion of such timber or logs in any other manner, and includes the treatment of any of the said articles by heat or chemicals where such treatment is carried on in conjunction with any of the aforesaid activities, and includes activities incidental thereto.

- (b) manufacture, stock-piling and retailing of wood-wool, boxes, shooks, mine supports, trays, crates, poles, planks, baulks, sleepers, pallets, drum cables, shelves (excluding cupboards and cabinets) or other articles of which wood constitutes the main component, and includes incidental activities.
- (c) This sector excludes the following activities where such activities do not take place together with any other activities mentioned in (a)
- I. Joinery;
 - II. The manufacture of wagons, carts and boats as covered by the Iron, Steel, Engineering and Metallurgical Industries;
 - III. The manufacture of coffins;
 - IV. The manufacture of plywood, veneers, veneered boards, laminated boards, block boards, chip boards or any similar products of which wood forms the main component;
 - V. The manufacture of containers or components of containers that are intended or used for the packaging or marketing of agricultural products, and
 - VI. Sawmilling as defined in (a) above is not included in the scope of this Bargaining Council when it is carried out in an establishment the principal activity of which is manufacture of wooded furniture and in which concern the lumber, planks, etc. produced from their own saw milling activity are processed further into furniture.

C. Pulp, Paper Sector

“Pulp and paper sector” means the sector concerned with the manufacture of pulp, paper, dissolving pulp and paper board, and includes activities, incidental thereto

D. Tissue and Allied Products Sector

“Tissue and Allied Products Sector” means the sector concerned with the production or conversion and distribution by the manufacturers, licensees and importers of tissue, absorbent, infant and adult and feminine care products of any nature whatsoever, including the occupations and operations incidental thereto, whether or not the said occupations and/ or operations are carried out separately or collectively, and includes activities, incidental thereto. “

E. Paper Distributors Sector

“Paper Distributors Sector” means the sector concerned with the distribution of printers’ supplies and other materials utilised by the graphic art industry in general, and includes activities, incidental thereto.”

4. CLAUSE 6: DISPUTE RESOLUTION LEVY

5.

Substitute clause 6.1 and 6.2 with the following:

6.1. Every employer shall deduct R4, 00 per month from the earnings of each of that employer’s employees.

6.2 The employer shall add an equal amount of (R4, 00) to the amount referred to in 6.1 above and shall forward the total amount to the Council on or before the 7th day of the month following the month in which the deductions were made. This payment shall be accompanied by a schedule stating the date of the deduction, the names of the employees, identity numbers of employees in respect of whom deductions were made, the total amounts deducted, the amount contributed by the employer and the total amount paid over to the Council

5 CLAUSE 7: COMPULSORY REGISTRATION OF EMPLOYERS

Substitute clause 7.1 with the following:

“7.1 Every employer, unless that employer has already done so, shall in respect of each place at which the employees carries on business involving an activity falling within the registered scope of the council complete a statement in the form “Annexure A” to this Agreement and lodge such statement with the General Secretary and include all identity numbers of all employees in the registered scope of the council, not later than 30 days after the date on which this Agreement becomes binding in the case of any place of business which is operating at that date , or of the commencement of business at any such place.”

6 CLAUSE 9: ENFORCEMENT AND DISPUTE RESOLUTION

Insert the following introduction to this clause:

“The Council has, in terms of section 127 of the Labour Relations Act, 1995, been accredited to perform dispute resolution functions, subject to the terms and conditions set out in the accreditation. The accreditation is renewable on annual basis, and for purposes of enforcement and dispute resolution, the Council has designated agents appointed by the Minister, and it uses the services of accredited CCMA commissioners to resolve disputes”.

7. CLAUSE 10: EXEMPTIONS

Substitute clause 10 with the following:

- “10.1 Any employer, whether a party or a non-party to the Council, which is registered with and falls within the Council’s registered scope for the purposes of this Agreement, may apply to the Council for exemption from any provision of this Agreement.
- 10.1. Any person bound by this agreement may apply for an exemption. The Council has authority to consider applications for exemptions; and grant exemptions in appropriate cases.
- 10.2 Any applications for exemption shall be made on a prescribed form, in the form of “Annexure B” to this Agreement.
- 10.3 Any applications for exemption or appeal shall be motivated in accordance with the exemption criteria set out in 10.18 below; shall be supported by relevant documentation and, in addition, shall contain the following information:
- (a) The period for which the exemption or appeal is sought;
 - (b) the number of employees affected and how many of such employees are member of a registered trade union;
 - (c) satisfactory proof that the applicant has consulted, or will consult, its employees at plant level in respect of the exemption or appeal sought, which consultation shall include a registered trade union party, where such trade union has members employed at the workplace, and shall include the response resulting from such consultation; and
 - (d) the demonstrable commercial need of the applicant for the exemption or appeal sought.

- 10.4 All applications for exemption shall be made to the General Secretary of the Council, who shall forthwith refer the full exemption application to the relevant Chamber Exemptions Committee, which shall have delegated powers to deal with such application on behalf of the Council.
- 10.5 The Chamber Exemptions Committee shall consider and decide on an application in accordance with the criteria set out in 10.19 below, within 30 days of receipt of the application by the Chamber Exemptions Committee.
- 10.6 The Chamber Exemptions Committee or National Exemption Appeals Committee may call for any further information or submission it deems appropriate from the applicant, prior to making a decision.
- 10.7 The Chamber Exemption Committee may, after considering the application in terms and the provisions of the criteria in clause 10.19, grant, partially grant, or reject such application for exemption, and may impose any conditions on the granting or partial granting of any application it deems fit under the circumstances.
- 10.8 The Chamber Exemptions Committee shall notify the applicant of its decision within seven days of such decision having been reached.
- 10.9 If the application has been granted or partially granted, the Chamber Exemptions Committee shall specify the following in its notification to the applicant:
- (i) The conditions, if any, of its approval of the application;
 - (ii) the period for which the exemption will be valid;
 - (iii) the full name of the exempted employer or employee; and
 - (iv) upon receipt of a written request, the Chamber Exemptions Committee shall provide brief written reasons for its decision to grant the exemption to any party which has an interest in the matter.
- 10.10 If the application for exemption is rejected or partially approved, the Chamber Exemptions Committee shall provide concise written reasons for such rejection or partially approval to the applicant within 7 days of its decision.
- 10.11 Any reasons given by the Chamber Exemption Committee shall not bind the National Exemption Appeals Committee in considering any appeal in 10.12 below, since the latter may make a decision on appeal in accordance with such reasons as it deems appropriate,
- 10.12 Any decision of the Chamber Exemptions Committee to reject, partially approve the application or withdraw an exemption already granted may be referred on appeal to the National Exemptions Appeals Committee hereby established in terms of Act.

- 10.13 In terms of section 32(3)(e) of the Act, the Council establishes an Independent Body to hear and decide as soon as possible any appeal brought against the Exemptions Body's known as Chamber Exemptions Committee refusal of a non-party's application for exemption from the provisions of a collective agreement by the exemption body or withdrawal of an exemption by the Council.
- 10.14 The Independent Body shall hear and decide and inform the applicant and the council as soon as possible and not later than 30 days after the appeal has been lodged against the decision of the exemptions body.
- 10.15 No representative, office bearer, or official of the Council, trade union or employers' organisation party to the Council may be a member or participate in the deliberations of the Independent Body.
- 10.16 Such application shall be lodged within fourteen (14) days of the applicant's being notified of the decision of the Chamber Exemptions Committee. The National Exemption Appeals Committee may condone a late appeal on good cause shown.
- 10.17 The National Exemption Appeals Committee's decision shall be final and binding.
- 10.18 The following criteria shall be taken into account by the Chamber Exemptions Committee and the National Exemption Appeals Committee when determining applications for exemptions or appeals:
- (a) The merits of the written and verbal (if any) motivation provided by the applicant, the documentation supporting the application, and in particular, whether the applicant has made a compelling case for the exemption or appeal;
 - (b) Whether or not the employees have supported or rejected the application, providing such support or rejection may be determined by ballot;
 - (c) Whether or not the applicant is in arrears with respect to payment of Council levies or employer or trade union subscriptions and if so, whether an agreed payment plan exists in respect of any such outstanding money;
 - (d) Whether the application, if granted, would result in a conflict with the primary objectives of the Act;
 - (e) what impact, if any, a successful application for exemption or appeal will have on the applicant's competitors;
 - (f) the extent to which the proposed exemption or appeal may undermine collective bargaining and labour peace in the Industry or sector;
 - (g) an existing or projected special financial, economic or other circumstances put forward by the applicant as reasons warranting the

granting of an exemption or appeal, including what economic hardship the applicant will suffer if the applicant is refused: Provided that the Chamber Exemptions Committee or the National Exemption Appeals Committee may require the disclosure of such relevant verifiable information as it deems fit in this regard;

- (h) the history of the business entity and/or its shareholders, directors and owner within the Industry, including the period of its operation and in particular whether or not the entity is a new, emerging enterprise or a small or medium enterprise (SME)
- (l) any representations made by the employees and/or their representatives, including a registered trade union, or any party to the Council;
- (j) any possible alternatives which may be acceptable to the applicant and/or any other interested party in the circumstances;
- (k) the cost, efficiency and administration of any conditions which the Chamber Exemptions Committee or National Exemption Appeals Committee may feel it necessary to impose;
- (l) what cost-saving measures may have been implemented by the applicant other than those in respect of its cost of labour;
- (m) what hardship may eventuate to employees in the event of the exemption or appeal being granted;
- (n) any relevant time limits contained in this exemption procedure or appeal procedure and the Act, and in particular that any exemption or partial granting of an exemption or granting or partial granting of appeal shall be for a fixed, stipulated period;
- (o) whether the applicant has provided sufficient verifiable and relevant information in support of the application;
- (p) any other relevant factor.

10.19 An applicant shall be entitled to apply on the prescribed form, "Annexure B" to the General Secretary of the Council for the extension of any exemption or appeal granted by either the Chamber Exemptions Committee or the National Exemption Appeals Committee. An application for extension shall contain such additional information as may be necessary and required to substantiate the request with reference to the criteria set out in 10.3 above.

10.20 The procedure and requirements for considering and determining an application for extension shall be in accordance with the provisions of 10.2 above, read with the changes required by the context. "

10.21 If an exemption is granted or partially granted the Exemptions Body or Independent Body whichever the case might be, shall issue an exemption

certificate, signed by its Chairman and Secretary, containing the following particulars:


- (a) the full name of the applicant(s) or enterprise concerned;
- (b) the trade name;
- (c) the provisions of the Agreement from which exemption or appeal has been granted;
- (d) the period for which then exemption or appeal shall operate;
- (e) the date of issue and from which the exemption or appeal shall operate;
- (g) the condition(s) of the exemption or appeal granted
- (h) the area in which the exemption or appeal applies

10.22) The Exemptions Body or Independent Body shall;

- (a) retain a copy of the certificate
- (b) forward the original certificate to the Secretary of the Council; and
- (c) a copy of the exemption or appeal certificate is sent to the applicant

10.23 An employer to whom a certificate has been issued shall at all times have the certificate available for inspection at his establishment.

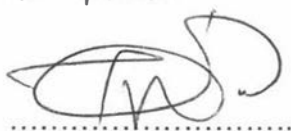
Thus done and signed at Johannesburg this 27th day of August 2015.



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David Ngubane

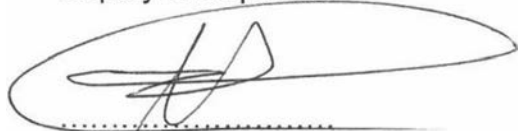
Chairperson



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Thamsanqa TV Mhlongo

Deputy Chairperson



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Linda Dlamini

General Secretary