

REGULASIEKOEKANT
REGULASIEKOEKANT

REGULASIEKOEKANT
REGULASIEKOEKANT



Regulation Gazette

No. 10518

Regulasiekoerant

Vol. 604

30

**October
Oktober**

2015

No. 39348

Contents

<i>No.</i>		<i>Gazette No.</i>	<i>Page No.</i>
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS			
Economic Development Department/ Ekonomiese Ontwikkeling Departement			
1043	International Trade Administration Act (71/2002): International Trade Administration Commission of South Africa: Amendment	39348	7
Labour, Department of/ Arbeid, Departement van			
1044	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 industry.....	39348	8
1044	UMthetho Wobudlelwano KwezabaSebenzi ka-1995: UMkhandlu Kazwelonke Wokuxoxisana phakathi kwa-baqashi Nabasebenzi Embonini Yezikhumba: Ukwelulelwa kwezivumelwano sabaqashi nabasebenzi besigaba sezimpahla ezijwayelekile kanye nezikhwama ezingcane eziphathwa abesifazane selulelwa kulabo abangeyona ingxenye yesivumelwano	39348	9
1045	Labour Relations Act, 1995: National Bargaining Council of the Leather Industry of South Africa: Extension to non-parties of the Tanning Section Collective Amending Agreement.....	39348	23
1045	UMthetho Wobudlelwano KwezabaSebenzi ka-1995: UMkhandlu Kazwelonke Wokuxoxisana phakathi kwabaqashi Nabasebenzi Bemboni Yezikhumba: Ukwelulelwa kwezivumelwano sabaqashi nabasebenzi besigaba sokushukwa kwezikhumba selulelwa kulabo abangeyona ingxenye yesivumelwano.....	39348	24
Water and Sanitation, Department of/ Water en Sanitasie, Departement van			
1046	National Water Act (36/1998): Regulations relating to access and use of Government Waterworks and surrounding state-owned land for recreational purposes in terms of the Act	39348	39

IMPORTANT ANNOUNCEMENT**Closing times** **PRIORTOPUBLICHOLIDAYS** *for***GOVERNMENT NOTICES, GENERAL NOTICES,
REGULATION NOTICES AND PROCLAMATIONS****2015***The closing time is 15:00 sharp on the following days:*

- **26 March**, Thursday, for the issue of Thursday **2 April 2015**
- **31 March**, Tuesday, for the issue of Friday **10 April 2015**
- **22 April**, Wednesday, for the issue of Thursday **30 April 2015**
- **30 April**, Thursday, for the issue of Friday **8 May 2015**
- **11 June**, Thursday, for the issue of Friday **19 June 2015**
- **6 August**, Thursday, for the issue of Friday **14 August 2015**
- **17 September**, Thursday, for the issue of Friday **25 September 2015**
- **10 December**, Thursday, for the issue of Friday **18 December 2015**
- **15 December**, Tuesday, for the issue of Thursday **24 December 2015**
- **22 December**, Tuesday, for the issue of Thursday **31 December 2015**
- **30 December**, Wednesday, for the issue of Friday **8 January 2016**

Late notices will be published in the subsequent issue, if under special circumstances, a late notice is accepted, a double tariff will be charged

The copy for a SEPARATE Government Gazette must be handed in not later than three calendar weeks before date of publication

BELANGRIKE AANKONDIGING**Sluitingstye** **VOOR VAKANSIEDAE** *vir***GOEWERMENTS-, ALGEMENE- & REGULASIE-
KENNISGEWINGS ASOOK PROKLAMASIES****2015***Die sluitingstyd is stiptelik 15:00 op die volgende dae:*

- **26 Maart**, Donderdag, vir die uitgawe van Donderdag **2 April 2015**
- **31 Maart**, Dinsdag, vir die uitgawe van Vrydag **10 April 2015**
- **22 April**, Wednesday, vir die uitgawe van Donderdag **30 April 2015**
- **30 April**, Donderdag, vir die uitgawe van Vrydag **8 Mei 2015**
- **11 Junie**, Donderdag, vir die uitgawe van Vrydag **19 Junie 2015**
- **6 Augustus**, Donderdag, vir die uitgawe van Vrydag **14 Augustus 2015**
- **17 September**, Donderdag, vir die uitgawe van Vrydag **25 September 2015**
- **10 Desember**, Donderdag, vir die uitgawe van Vrydag **18 Desember 2015**
- **15 Desember**, Dinsdag, vir die uitgawe van Donderdag **24 Desember 2015**
- **22 Desember**, Dinsdag, vir die uitgawe van Donderdag **31 Desember 2015**
- **30 Desember**, Wednesday, vir die uitgawe van Vrydag **8 Januarie 2016**

Laat kennisgewings sal in die daaropvolgende uitgawe geplaas word. Indien 'n laat kennisgewing wel, onder spesiale omstandighede, aanvaar word, sal 'n dubbeltarief gehef word

Wanneer 'n APARTE Staatskoerant verlang word moet die kopie drie kalenderweke voor publikasie ingedien word

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

ECONOMIC DEVELOPMENT DEPARTMENT

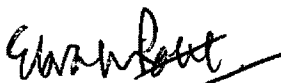
NO. R. 1043

30 OCTOBER 2015

International Trade Administration Commission of South Africa**Export Control**

I, Ebrahim Patel, in my capacity as Minister of Economic Development, acting under the powers vested in me by section 6 of the International Trade Administration Act, 2002 (Act No. 71 of 2002) hereby amend Government Notice No. R92 published in Government Gazette No. 35007 dated 10 February 2012 by the inclusion under Schedule 1 of the following description in Column (1), Code letter in Column (2) and tariff sub-heading in Column (3):

Column 1	Code letter	Tariff sub-heading
Waste and scrap of primary cells, primary batteries and electric accumulators, spent primary cells, spent primary batteries and spent electric accumulators	EA	8548.10



Ebrahim Patel, MP
Minister of Economic Development

DEPARTMENT OF LABOUR


NO. R. 1044

30 OCTOBER 2015

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, **MILDRED NELISIWE OLIPHANT**, 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 the second Monday after date of publication of this notice and for the period ending 30 June 2016.


MINISTER OF LABOUR
14/10/2015

DEPARTMENT OF LABOUR

NO. R. 1044


30 OCTOBER 2015

UMNYANGO WEZABASEBENZI

UMTHETHO WOBUDLELWANO KWEZABASEBENZI KA 1995

UMKHANDLU KAZWELONKE WOKUXOXISANA PHAKATHI KWABAQASHI
NABASEBENZI BEMBONI YEZIKHUMBA: UKWELULELWA
KWESIVUMELWANO SABAQASHI NABASEBENZI BESIGABA SEZIMPAHLA
EZIJWAYELEKILE KANYE NEZIKHWAMA EZINCANE EZIPHATHWA
ABESIFAZANE SELULELWA KULABO ABANGEYONA INGXENYE
YESIVUMELWANO

Mina, **MILDRED NELISIWE OLIPHANT**, onguNgqongqoshe WezabaSebenzi ngokwesigaba 32(2) soMthetho Wobudlelwano KwezabaSebenzi, ka-1995, ngazisa ukuthi isiVumelwano sabaqashi nabasebenzi esitholakala kwiSheduli yesiNgisi exhunywe lapha, esenziwa uMkhandlu Kazwelonke Wokuxoxisana phakathi kwabaqashi Nabasebenzi Embonini Yezikhumba, futhi ngokwesigaba 31 soMthetho Wobudlelwano KwezabaSebenzi, ka 1995 esibopha labo abasenzayo, sizobopha bonke abanye abaqashi nabasebenzi kuleyoMboni, kusukela ngomSombuluko wesibili emva kokushicilelwa kwalesisaziso kuze kube mhlaka 30 kuNhlangulana 2016.


UNGQONGQOSHE WEZABASEBENZI
14/10/2015

SCHEDULE

NATIONAL BARGAINING COUNCIL OF THE LEATHER
INDUSTRY OF SOUTH AFRICAGENERAL GOODS AND HANDBAG SECTOR
COLLECTIVE AGREEMENT

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

(a) **Association of South African Manufacturers of Luggage, Handbags
and General Goods**

(Hereinafter referred to as the "employers" or the "employer
organisation") of the one part, and the

(b) **National Union of Leather and Allied Workers**

and

(c) **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 Sector, published under Government Notices No. R.1193 of
17 December 2010, R.524 of 24 June 2011, R.1018 of 7 December 2011,
R.885 of 2 November 2012, R.771 of 18 October 2013 and R.790 of 17
October 2014.

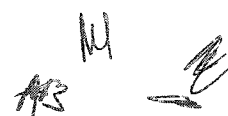
AS M ✓

1. CLAUSE 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 employer organisation, and by all employees who are members of the trade unions who are engaged or employed in the General Goods and Handbag sectors of the Leather Industry respectively.
- (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 the 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) and 2(1).

2. CLAUSE 2 - DATE AND PERIOD OF OPERATION

- (1) This agreement shall come into operation for the parties on 1 July 2015 and remain in force for the period ending 30 June 2016.
- (2) This agreement shall come into operation for non-parties 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 2016.

Handwritten initials and signatures in the bottom right corner of the page. There are three distinct marks: 'AS' on the left, 'M' in the middle, and a stylized signature on the right.

3. CLAUSE 28: AGENCY SHOP AGREEMENT

Substitute the following for Sub-Clause (6)

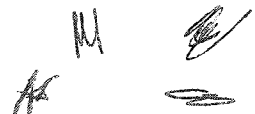
- (6) The agency fee shall be equal to 1% (one percent) of the employee's basic weekly wage up to a maximum amount of R14.75.

4. ANNEXURE C WAGES

Substitute the following for Annexure "C"

"Nothing in this agreement shall operate to reduce any time wage at present being paid which is more favourable to an employee than that laid down in this agreement for such employee while he remains in the service of the same employer."

A M

Handwritten initials and signatures in the bottom right corner of the page. There are two sets of initials, one appearing to be 'A' and the other 'M', and two distinct signatures.

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)	1632.23	1795.45
(ii) Chargehand (Grade B2)	1240.16	1364.18
(iii) Despatch Clerk (Grade A3)	1044.34	1148.77
(iv) Driver of a motor vehicle authorised to carry or haul a payload of:		
(a) Under 2722 Kg (Grade B1)	1082.41	1190.65
(b) Over 2722 Kg (Grade B2)	1240.16	1364.18
(v) General Worker (Grade A1)	807.74	888.51
(vi) Night Watchman (Grade A2)	878.72	966.59
(vii) Packer (Grade A1)	807.74	888.51
(viii) Storeman (Grade A3)	1044.34	1148.77
(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	807.74	888.51
(ii) Grade A2	878.72	966.59
(iii) Grade A3	1044.34	1148.77
(iv) Grade B1	1082.41	1190.65
(v) Grade B2	1240.16	1364.18
(vi) Grade B3	1357.93	1493.72

AS M

	Column A Per Week	Column B Per Week
(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 Cricket and Hockey Balls in the Magisterial District of Wynberg:		
(i) Grade A1	807.74	888.51
(ii) Grade A2	878.72	966.59
(iii) Grade A3	1044.34	1148.77
(iv) Grade B1	1082.41	1190.65
(v) Grade B2	1240.16	1364.18
(vi) Grade B3	1357.93	1493.72
(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	654.80	720.28
During the second six months of experience	781.69	859.86

2. PROPORTION AND RATIO OF EMPLOYEES

(1) Travelling requisites -

- (a) Not less than one foreman shall be employed in every establishment.
- (b) In each of the wage categories listed in paragraphs (i), (ii), (iii), (iv), (v) and (vi) of subclause (c) not more than one learner may be employed for every qualified employee employed in that category.

(2) Saddlery -

- (a) not less than one foreman shall be employed in every establishment.
- (b) In each of the wage categories listed in paragraphs (ii), (iii), (iv), (v), and (vi) of subclause (C), not more than one learner may be employed for every qualified employee employed in that category.

(3) Harness -

- (a) Not less than one foreman shall be employed in each establishment
- (b) For each employee receiving a wage of not less than R888.51 per week during the period ending 30 June 2016, not more than one employee may be employed at a wage less than R888.51 per week during the period ending 30 June 2015: Provided that general workers shall not be taken into

AS M



consideration when determining the number of such employees that may be employed.

(4) Braces -

For each employee receiving a wage of not less than R888.51 per week during the period ending 30 June 2016, not more than one employee may be employed at a wage of less than R888.51 per week during the period ending 30 June 2016: Provided that general workers shall not be taken into consideration when determining the number of such employees that may be employed.

(5) Personal Goods -

For each employee receiving a wage of not less than R888.51 per week during the period ending 30 June 2016, not more than one employee may be employed at a wage of less than R888.51 per week during the period ending 30 June 2016: Provided that general workers shall not be taken into consideration when determining the number of such employees that may be employed.

(6) Handbags -

(a) Not less than one foreman shall be employed in each establishment.

(b) The number of learners employed in each *establishment* shall not exceed three such employees to every two qualified employees employed in such *establishment*.

(c) Notwithstanding the provisions of subclause (1), the following departmental ratios shall be observed.

(i) Cutting Department - Not more than three learner cutters shall be employed to every two qualified cutters employed in each *establishment*.

(ii) Machining Department - Not more than three learner machinists shall be employed to every two qualified machinists employed in each *establishment*.

(iii) Handbag Framing Department - Not more than three learner handbag framers shall be employed to every two qualified handbag framers employed in each *establishment*.

6. CLAUSE 23: EXEMPTIONS

Replace clause 23 with the following:

"Exemptions and exemption appeals shall be followed in terms of provisions made in Annexure E"

Handwritten initials and signatures, including 'AS', 'M', and a signature.

ANNEXURE E

EXEMPTION AND EXEMPTION APPEAL POLICY AND PROCEDURE**1. BACKGROUND**

Section 32(3)(dA) of the Labour Relations Act (the "Act") requires that a Bargaining Council have an effective procedure to deal with applications by non-parties for exemptions from the provisions of its collective agreements.

Accordingly an exemption and exemption appeal policy & procedure in respect of the National Bargaining Council of the Leather Industry of S.A (hereafter referred to as the "Council") for both party and non-party is established and maintained in terms hereof.

2. DEFINITIONS

'Act' means the Labour Relations Act, 1995 (Act 66 Of 1995) as amended

"Agent" means a designated agent of the National Bargaining Council of the Leather Industry of South Africa

"Agreements" means collective agreements concluded in the National Bargaining Council of the Leather Industry of South Africa

"Applicant" means a party or non-party employer conducting a business under the jurisdiction of the Council and who applies for an exemption or appeals against a decision of the Exemptions Committee in terms of this procedure.

"Bargaining Council or Council" means the National Bargaining Council of the Leather Industry of South Africa

"Day" means any day other than a Saturday, Sunday or public holiday, and when any particular number of days is prescribed for the doing of any act, the number of days must be calculated by excluding the first day and including the last day;

'Exemptions Committee' means the National Exemptions Committee or any other sub-committee delegated by the National Exemptions Committee to perform all or part of its functions

"Exemption Criteria" means the exemption criteria contained in the collective agreements of the National Bargaining Council of the Leather Industry of South Africa

"General Secretary" means the General Secretary of the Council

AS 

3. EXEMPTIONS AND EXEMPTION APPEALS

3.1 EXEMPTIONS: An Applicant may apply to the Bargaining Council for exemption from the provisions of collective agreements concluded in the Bargaining Council.

3.1.1 The Council must consider applications for exemptions within 30 days of receipt of a valid application.

3.2 EXEMPTION APPEALS: An Applicant who is aggrieved by the Exemption Committee's decision has the right to appeal to the Independent Exemptions Appeal Body appointed by the Council.

3.2.1 The Independent Appeal Body will hear and decide appeals as soon as possible and not later than 30 days after a valid appeal is lodged

3.2.2 A decision of the Independent Exemption Appeal Body shall be final.

4. EXEMPTIONS COMMITTEE

4.1 Establishment & Composition of the Exemptions Committee:

The Council shall establish a National Exemptions Committee consisting of eight (8) members four (4) of whom are appointed by the employer organisations party to the Council and four (4) appointed by the trade unions party to the Council. The employer organizations are for the time being each entitled to one member, with the most representative being entitled to appoint an additional member. The trade unions to the Council are for the time being entitled to entitled to a minimum of one member each with the remaining two positions being filled by the unions' based on their representativeness in the COUNCIL.

4.2 Exemption Committee Meetings

4.2.1 A quorum for the meetings shall be the attendance of at least two party employer members and at least two party trade union members.

4.2.2 Exemption Committee meetings shall be held on an ad-hoc basis in the province in which the applicant conducts business subject to the decision of the Exemptions Committee.

5. THE EXEMPTIONS MANDATE

5.1 The Exemptions Committee is mandated by the Council to consider all party and non-party applications for exemption from the collective agreements concluded in the Bargaining Council.

5.2 The Exemptions Committee may delegate any of its functions or duties to a District Committee or any other committee of the Council as the case may be.

AS M E

- 5.3 The Exemptions Committee will consider and determine applications for exemption in a manner it considers appropriate to determine the application fairly and quickly, which may be limited to a consideration of written motivations or the hearing of oral submissions as the case may be.
- 5.4 The Exemptions Committee, when considering an application for exemption must take into account the exemption criteria.
- 5.5 The Exemptions Committee shall have the power to approve, refuse, partly approve or withdraw an application for exemption
- 5.6 The Exemptions Committee, on not approving an application or part thereof or withdrawing an exemption must provide the Applicant with written reasons for its decision.

6. EXEMPTIONS

6.1 APPLICATION PROCESS

- 6.1.1 Applications for exemption from the provisions of a collective agreement must be made in writing on the prescribed application form, and lodged with the local office of the Council.
- 6.1.2 Applications must be motivated and supported by relevant documents, data, audited financial statements (where applicable) and other relevant financial information.
- 6.1.3 Applications that impact employees terms and conditions of employment must be accompanied by written proof that employees and/or their representatives/trade unions have been consulted and furthermore be accompanied by a record of their support or not of the application.
- 6.1.4 Applications must indicate the period for which the exemption is sought.

6.2 EXEMPTION PROCEDURE

- 6.2.1 The Council must open and maintain a register for each application which records the following:
- 6.2.1.1 date of receipt of application
- 6.2.1.2 reference number
- 6.2.1.3 name of applicant
- 6.2.1.4 brief description of exemption application
- 6.2.1.5 name of the Agreement and the clause/s from which exemption is sought
- 6.2.1.6 date of validation of exemption application
- 6.2.1.7 date of exemption hearing

Handwritten initials and marks at the bottom right of the page, including a large 'M', a signature, and other scribbles.

- 6.2.2 Upon receipt of an application, the date received must be recorded in the register
- 6.2.3 The agent of the relevant District Office shall on receipt of an application scrutinise the application to ensure that the application is complete and valid.
- 6.2.4 Should the agent find the application to be incomplete, the agent shall send written communication to the applicant advising of this and what is required to complete the application
- 6.2.5 After the agent is satisfied that the application is complete, the application shall be considered valid and the agent shall record the date of validation accordingly.
- 6.2.6 Within five days from date of validation the agent shall verify the employer's consultation with the employees/trade union and report in writing whether the employees / trade union support or oppose the application.
- 6.2.7 Within seven days of receipt of the agent's report on the consultation process, the General Secretary shall arrange a date, time and venue for the hearing of the application.
- 6.2.8 The set down date for the hearing must not be later than 30 days of the validation of the application by the Agent.
- 6.2.9 The General Secretary shall notify the applicant in writing of the date, time and venue of the hearing.
- 6.2.10 In the event that the applicant does not attend the hearing, the Exemptions Committee will consider the application on the written application and supporting documents.
- 6.2.11 The General Secretary must within fourteen days of the exemption being granted advise the applicant of such decision in writing and issue a Licence of Exemption setting out the following:
- 6.2.11.1 The full names of the Applicant.
- 6.2.11.2 The provisions of the collective agreement from which the exemption has been granted.
- 6.2.11.3 The conditions subject to which the exemption is granted.
- 6.2.11.4 The period which the exemption will operate clearly stating The commencement and expiring dates.
- 6.2.12 Where the Committee does not approve an Application or part thereof or when deciding to withdraw an Exemption, the General Secretary must advise the applicant in writing within fourteen days of

Handwritten signature and initials in the bottom right corner of the page.

the date of such decision and provide the Applicant with reasons therefor.

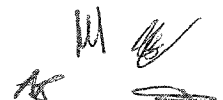
7. EXEMPTION APPEALS

7.1 Establishment of an Independent Appeal Body

- 7.1.1 In terms of section 32(3)(e) of the Act, the Council creates and maintains an Independent Exemptions Appeal Body to hear and decide appeals against an Exemptions Committee's refusal or partial refusal to grant an exemption or its withdrawal or partial withdrawal of an exemption.
- 7.1.2 An Independent Appeal Body must be appointed by the Council and may consist of one or more persons, as determined by the Council
- 7.1.3 No representative, office-bearer or official of a trade union or employers' organisation party to the Council may be a member of the Independent Exemptions Appeal Body.

7.2 APPLICATION PROCESS & PROCEDURE

- 7.2.1 An Applicant aggrieved by an Exemptions Committee's decision shall within **30 days** of being notified of the Exemptions Committee's decision have the right to appeal to the Independent Exemptions Appeal Body.
- 7.2.2 Should the appellant show good cause, the Independent Appeal Body may condone a late appeal.
- 7.2.3 A valid notice of appeal must be in writing clearly setting out the grounds on which the appeal is based and be accompanied by relevant supporting documentation.
- 7.2.4 Upon receipt of an appeal application, the General Secretary shall forward the appeal application together with the original application for exemption and supporting documents to the Independent Appeal Body for a decision
- 7.2.5 The General Secretary in consultation with the Independent Appeal Body will arrange a date, time and venue for the appeal hearing. The date of the hearing shall not be later than 30 days from which a valid appeal was filed with the Council.



- 7.2.6 The Independent Appeal Body shall hear and determine appeals in any manner it considers appropriate to determine the application fairly and quickly.
- 7.2.7 The Independent Appeal Body shall render a decision within fourteen days from the last date of the appeal hearing
- 7.2.8 Should the Independent Appeal Body reverse a decision of the Exemptions Committee, the Council must issue the applicant with a licence of exemption accordingly
- 7.2.9 The Independent Appeal Body has discretion to order against the appellant payment of all costs incurred by the Council in arranging and conducting the appeal in the event of it upholding the decision of the Exemptions Committee

8. EXEMPTION CRITERIA

The Exemptions Committee and Independent Appeal Body must when considering an exemption application/appeal, take into account the following criteria:

- (a) any written and/or verbal substantiation provided by the applicant;
- (b) fairness to the employer, its employees and other employers and the employees in the industry;
- (c) whether an exemption, if granted, would undermine this Agreement or the collective bargaining process;
- (d) whether it will make a material difference to the viability of a new business, or a business previously outside the jurisdiction of the Council;
- (e) unexpected economic hardship occurring during the currency of the Agreement, and job creation and/or loss thereof.
- (f) the infringement of basic conditions of employment rights;
- (g) the fact that a competitive advantage might be created by the exemption;
- (h) comparable benefits or provisions where applicable;
- (i) the applicant's compliance with other statutory requirements such as the Occupational Injuries and Diseases Act or Unemployment Insurance; or
- (j) any other factor which is considered appropriate.

Handwritten initials and signatures, including 'AG', 'M', and a stylized signature.

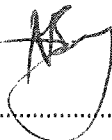
SIGNED BY THE PARTIES AT **DURBAN** ON THIS THE **22nd** DAY OF **JULY 2015**.

S ESSON, Member of the Council



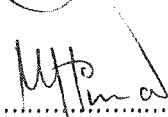
.....

A BENJAMIN, Member of the Council




.....

V MEMBINKOSI, Member of the Council



.....

S NAIDOO, General Secretary of
the Bargaining Council



.....

DEPARTMENT OF LABOUR

NO. R. 1045

30 OCTOBER 2015

LABOUR RELATIONS ACT, 1995

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

I, **MILDRED NELISIWE OLIPHANT**, 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 the second Monday after date of publication of this notice and for the period ending 30 June 2016.

Mildred Nelisiwe Oliphant
MINISTER OF LABOUR
14/10/2015

DEPARTMENT OF LABOUR

NO. R. 1045


30 OCTOBER 2015

UMNYANGO WEZABASEBENZI

UMTHETHO WOBUDLELWANO KWEZABASEBENZI KA 1995

UMKHANDLU KAZWELONKE WOKUXOXISANA PHAKATHI KWABAQASHI
NABASEBENZI BEMBONI YEZIKHUMBA: UKWELULELWA
KWESIVUMELWANO SABAQASHI NABASEBENZI BESIGABA SOKUSHUKWA
KWEZIKHUMBA SELULELWA KULABO ABANGEYONA INGXEYENYE
YESIVUMELWANO

Mina, **MILDRED NELISIWE OLIPHANT**, onguNgqongqoshe Wezabasebenzi ngokwesigaba 32(2) soMthetho Wobudlelwano Kwezabasebenzi, ka-1995, ngazisa ukuthi isiVumelwano sabaqashi nabasebenzi esitholakala kuSheduli yesiNgisi exhanywe lapha, esenziwa umkhandlu Wokuxoxisana phakathi Nabasebenzi Emboni ni Yezikhumba, futhi ngokwesigaba 31 somthetho wobudlelwano kwezabasebenzi ka 1995 esibopha labo abasenzayo, sizobopha bonke abanye abaqashi nabasebenzi kuleyomboni, kusukela ngomSombuluko wesibili emva kokushicilelwa kwalesisaziso kuze kube mhlaka 30 kuNhlangulana 2016.


UNGQONGQOSHE WEZABASEBENZI
14/10/2015

SCHEDULE

NATIONAL BARGAINING COUNCIL OF THE LEATHER

INDUSTRY OF SOUTH AFRICA

COLLECTIVE AGREEMENT: TANNING SECTION

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

South African Tanning Employers' Organisation (SATEO)

(hereafter referred to as the "employers" or the "employers' organisation")

and the

Southern African Clothing and Textile Workers' Union (SACTWU)

and

National Union of Leather and Allied Workers (NULAW)

(hereafter referred to as the "employees" or the "trade unions")

being parties to the National Bargaining Council of the Leather Industry of South Africa, to extend and amend the Agreement published under Government Notices No R.1318 of 6 November 1998 as further amended, renewed and re-enacted under Government Notices Nos. R.287 of 12 March 1999, R.1017 of 27 August 1999, R.47 of 28 January 2000, R.555 of 9 June 2000, R.128 of 9 February 2001, R.389 of 18 May 2001, R.823 of 7 September 2001, R.1230 of 30 November 2001, R.693 of 17 May 2002, R.1531 of 13 December 2002, R.714 of 6 June 2003, R.1357 of 3 October 2003, R.748 of 25 June 2004, R.592 of 24 June 2005, R.593 of 24 June 2005, R.335 of 13 April 2006, R.631 of 30 June 2006, R.1269 of 15 December 2006, R.513 of 22 June 2007, R.1068 of 16 November 2007, R.1038 of 3 October 2008, R.474 of 8 May 2009, R.1184 of 18 December 2009, R.1191 of 17 December 2010, R.523 of 24 June 2011, R.886 of 28 October 2011, R.886 of 2 November 2012, R.770 of 18 October 2013 and R.789 of 17 October 2014.

AS M
y.

1. SCOPE OF APPLICATION OF AGREEMENT

- (1) The terms of this agreement will be observed in the tanning 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, Ka Ngwana and Kwa Ndebele;
 - (b) by all employers who are members of the employers' organisation, and by all employees who are members of the trade unions, and who are engaged or employed in the said section of the industry.
- (2) The terms of this Agreement will apply only to employees for whom wages are prescribed in terms of this agreement, and to employers of such employees.
- (3) The terms of this agreement will not apply to non parties in respect of clauses 1 (1)(b) and 2 (1).

2. DATE AND PERIOD OF OPERATION

- 1) This Agreement will come into operation for the parties on 1 July 2015 and remain in force for the period ending 30 June 2016.
- 2) This Agreement will come into operation for non-parties on such date as the Minister of Labour extends the agreement to them, and will remain in force for the period ending 30 June 2016.

3. CLAUSE 3: DEFINITIONS

Replace the following definitions for "**General Worker**" and "**General Worker entry level**"

"**General Worker**" means an employee employed on unskilled, manual work including all types of cleaning, carrying, loading or unloading of vehicles, making of beverages, assisting on delivery vehicles, collection/delivery of mail and messages, marking of packages and bales, effluent disposal, feeding hides or skins on to conveyors or transporters, and the physical handling of hides and skins in all departments. Provided that a person which is so employed prior to 1 July 2006 and leaves the Industry after 1 July 2015 for reason of a retrenchment, shall on return to the Industry be employed at a rate no less than that of a General Worker provided in Schedule 1 to this Agreement.

"**General Worker entry level**" means a person who was employed after 1 July 2006 in a position of a general worker as defined.

M
AS M

4. CLAUSE 7 : REMUNERATION**7.1 Wages and Wage Rates**

Substitute the following for subclause (1):

An employer will pay an employee at least the wages prescribed in terms of Schedule 1 for the operation performed by the employee

M
AS MB

**SCHEDULE 1
WAGES AND WAGE RATES**

		<u>Rate Per Hour</u>
1	Lime/Tan Yard, Shaving, Splitting, Dyeing, Drying and Finishing Section Rates:	
	Band A1 employees engaged in:	
	ROUNDING	36.01
	SPLITTING	44.55
	Band A2 employees engaged in:	
	SHAVING	38.17
	Band B employees engaged in:	
	COLOUR MATCHING	33.65
	GLAZING	33.65
	HAND SPRAYING	35.54
	HAND TIPPING	33.65
	PILOT PLANT OPERATING	35.54
	POLISHING	33.65
	Band C employees engaged in:	
	ASSISTING SPLITTER	33.16
	BRUSHING	33.16
	BUFFING	33.16
	CHEMICAL WEIGHING	33.16
	COLOUR MIXING	33.16
	CURTAIN COATING	33.16
	CONDITIONING	30.99
	DRUM OPERATING	30.99
	DRY CLEANING MACHINE	30.99
	EMBOSSING/PRINTING	33.16
	FLESHING (HAND OR MACHINE)	33.16
	HIDE STAMPING	31.34
	HYDRAULIC PRESS	33.16
	MEASURING	33.16
	PADDING	33.16
	PASTING	33.16
	ROLLER COATING	33.16
	ROTOR PRESS	33.16
	ROTOR SPRAYING	33.16
	SAMMYING	33.16
	SETTING	33.16
	SOLE ROLLING	33.16
	STAKING	33.16
	TRIMMING AFTER SHAVING	30.99
	VACUUM DRYING	33.16

M 8
AS M

	Band D employees engaged in:	
	FLESH TRIMMING	30.55
	GENERAL WORKERS..... (on operations as defined in definition of General Worker)	30.55
	HANG DRYING	30.55
	MILLING	30.55
	SUBSTANCE CHECKING	30.55
	TOGGLING	30.55
	Band E Employees	
	General Worker Entry Level as defined in Definition of General Worker, Entry Level	24.81
	Learners employed on operations specified in Bands A1, A2, B and C will be paid on the following basis:	
	First six months of experience	80% of prescribed wage
	Second six months of experience	90% of prescribed wage
2	Quality examining and/or Sorting rates:	
	Band A1 employees engaged as a:	
	FINAL SORTER.....	36.01
	WET BLUE SORTER.....	36.01
	Band B employees engaged as a:	
	CRUST SORTER.....	33.65
	Band C employees engaged as a:	
	SPLIT SORTER.....	33.16
3	Fellmongering Section Rates:	
	Band B Employees engaged in –	
	PICKLE SORTING	33.65
	Band C Employees engaged in –	
	BREAK FLESHING	33.16
	FINAL FLESHING	33.16
	PICKLE DRUM OPERATING	30.99
	SULPHIDE PAINTING	30.99
	Band D Employees engaged in –	
	BREAK FLESHING ASSISTANT	30.55
	COUNTING AND PACKING	30.55
	DRUM CLOSING	30.55
	HAND WOOL PULLING	30.55
	MACHINE WOOL PULLING	30.55
	PADDLE OPERATING	30.55
	WOOL BALING / PACKING	30.55
	WOOL DRYING	30.55
	WOOL PICKING	30.55
	WOOL WASHING	30.55

M
A
J

	Band E Employees General Workers entry level as defined in Definition of General Worker, entry level	24.81
	Learners employed on operations as specified in Bands B and C will be paid on the following basis:	
	First six months of experience	80% of prescribed wage
	Second six months of experience	90% of prescribed wage
4	Wool-Skin Processing and Operations not elsewhere Specified rates:	
	Band C employees engaged in –	
	CARDING	31.71
	COMBING	31.71
	CUTTING TO PATTERNS	31.20
	IRONING	31.71
	SHEARING	31.71
	STITCHING BY MACHINE	32.30
5	Cutting Section Rates:	
	Band A1 employees engaged in:	
	CUTTER 1	38.75
	FINAL INSPECTING	36.01
	Band A2 employees engaged in:	
	HAND CUTTING	36.01
	Band B employees engaged in:	
	COMPONENT SPLITTING	32.74
	CUTTER 2	35.54
	HIDE MARKING	35.54
	Band C employees engaged in:	
	COMPONENT PACKING	31.34
	LAMINATING	31.34
	LAYING OUT	31.34
	PERFORATING	31.34
	STAMPING (PIECE MARKING)	31.34
	TEMPLATE CONTROL	31.34

M
 AS
 M

		<u>Rate Per Hour</u>
	Band D employees engaged in –	
	General Workers on operations as defined in the Definition Of "General Worker"	30.55
	Learners employed on operations as specified in Bands A1, A2, B and C will be paid on the following basis:	
	First six months of experience	80% of prescribed wage
	Second six months of experience	90% of prescribed wage
6	Band E Employees	
	General Workers Entry Level as defined in Definition of General Worker, entry level	24.81
	The following wage rates will be paid to employees other than those referred to in 1, 2, 3, 4 and 5:	
	Band A2 employees engaged as a:	
	Motor Vehicle Delivery Driver..... (Code C Licence or higher)	35.51
	Band B employees engaged as a:	
	Despatch Clerk	32.49
	Handyman	31.87
	Motor Vehicle General Driver	33.20
	(Code C1 Licence or lower)	
	Spray Gun Mechanic	35.54
	Storeman and/or Warehouseman	32.49
	Tractor Driver	33.20
	Band C employees engaged as a:	
	Boiler Attendant	31.34
	Forklift Driver	33.16
	Security Guard	31.34
	Store Assistant and/or Warehouseman Assistant	31.34
	Band D employees engaged as a:	
	Nylon Replacer	30.55

→ M
AS 7

7.2 Overtime Rates

Insert the following as sub-clause 7.2(1(c)(viii)

"Family responsibility leave"

7.3 Holiday Bonus

Substitute the following for subclause (1):

- (1) An employer will pay every employee who has completed twelve (12) months employment a holiday bonus. Employees employed in the automotive tanning industry will be paid a holiday bonus equal to fifteen (15) days basic wage. Employees employed in the non-automotive tanning industry will be paid a holiday bonus equal to fourteen (14) days basic wage. In the event of an employee not utilising his/her sick leave entitlement in terms of clause 6.5(2), he/she will be entitled to an additional bonus calculated as follows:
- (a) an additional two days' wages in respect of the first five (5) days of sick leave not taken; and
 - (b) a further three days in respect of an employee not utilising the balance of his/her sick leave entitlement (five (5) days).

5. CLAUSE 17: AGENCY SHOP AGREEMENT

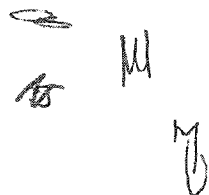
Substitute the following for subclause (6):

- (6) The agency fee shall be equal to 1% (one percent) of the employee's basic weekly wage up to maximum amount of R14.75.

6. CLAUSE 12: EXEMPTIONS

Replace clause 12 with the following:

"Exemptions and exemption appeals shall be followed in terms of provisions made in Annexure B"

Handwritten initials and marks, including a signature and the letters 'M' and 'B'.

ANNEXURE B**EXEMPTION AND EXEMPTION APPEAL POLICY AND PROCEDURE****1. BACKGROUND**

Section 32(3)(dA) of the Labour Relations Act (the "Act") requires that a Bargaining Council have an effective procedure to deal with applications by non-parties for exemptions from the provisions of its collective agreements.

Accordingly an exemption and exemption appeal policy & procedure in respect of the National Bargaining Council of the Leather Industry of S.A (hereafter referred to as the "Council") for both party and non-party is established and maintained in terms hereof.

2. DEFINITIONS

'Act' means the Labour Relations Act, 1995 (Act 66 Of 1995) as amended

"Agent" means a designated agent of the National Bargaining Council of the Leather Industry of South Africa

"Agreements" means collective agreements concluded in the National Bargaining Council of the Leather Industry of South Africa

"Applicant" means a party or non-party employer conducting a business under the jurisdiction of the Council and who applies for an exemption or appeals against a decision of the Exemptions Committee in terms of this procedure.

"Bargaining Council or Council" means the National Bargaining Council of the Leather Industry of South Africa

"Day" means any day other than a Saturday, Sunday or public holiday, and when any particular number of days is prescribed for the doing of any act, the number of days must be calculated by excluding the first day and including the last day;

"Exemptions Committee" means the National Exemptions Committee or any other sub-committee delegated by the National Exemptions Committee to perform all or part of its functions

"Exemption Criteria" means the exemption criteria contained in the collective agreements of the National Bargaining Council of the Leather Industry of South Africa

"General Secretary" means the General Secretary of the Council

→ M
AS M

3. EXEMPTIONS AND EXEMPTION APPEALS

3.1 EXEMPTIONS: An Applicant may apply to the Bargaining Council for exemption from the provisions of collective agreements concluded in the Bargaining Council.

3.1.1 The Council must consider applications for exemptions within 30 days of receipt of a valid application.

3.2 EXEMPTION APPEALS: An Applicant who is aggrieved by the Exemption Committee's decision has the right to appeal to the Independent Exemptions Appeal Body appointed by the Council.

3.2.1 The Independent Appeal Body will hear and decide appeals as soon as possible and not later than 30 days after a valid appeal is lodged

3.2.2 A decision of the Independent Exemption Appeal Body shall be final.

4. EXEMPTIONS COMMITTEE

4.1 Establishment & Composition of the Exemptions Committee:

The Council shall establish a National Exemptions Committee consisting of eight (8) members four (4) of whom are appointed by the employer organisations party to the Council and four (4) appointed by the trade unions party to the Council. The employer organizations are for the time being each entitled to one member, with the most representative being entitled to appoint an additional member. The trade unions to the Council are for the time being entitled to entitled to a minimum of one member each with the remaining two positions being filled by the unions' based on their representativeness in the COUNCIL.

4.2 Exemption Committee Meetings

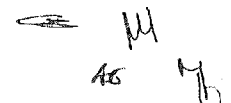
4.2.1 A quorum for the meetings shall be the attendance of at least two party employer members and at least two party trade union members.

4.2.2 Exemption Committee meetings shall be held on an ad-hoc basis in the province in which the applicant conducts business subject to the decision of the Exemptions Committee.

5. THE EXEMPTIONS MANDATE

5.1 The Exemptions Committee is mandated by the Council to consider all party and non-party applications for exemption from the collective agreements concluded in the Bargaining Council.

5.2 The Exemptions Committee may delegate any of its functions or duties to a District Committee or any other committee of the Council as the case may be.


MS
AS

- 5.3 The Exemptions Committee will consider and determine applications for exemption in a manner it considers appropriate to determine the application fairly and quickly, which may be limited to a consideration of written motivations or the hearing of oral submissions as the case may be.
- 5.4 The Exemptions Committee, when considering an application for exemption must take into account the exemption criteria.
- 5.5 The Exemptions Committee shall have the power to approve, refuse, partly approve or withdraw an application for exemption
- 5.6 The Exemptions Committee, on not approving an application or part thereof or withdrawing an exemption must provide the Applicant with written reasons for its decision.

6. EXEMPTIONS

6.1 APPLICATION PROCESS

- 6.1.1 Applications for exemption from the provisions of a collective agreement must be made in writing on the prescribed application form, and lodged with the local office of the Council.
- 6.1.2 Applications must be motivated and supported by relevant documents, data, audited financial statements (where applicable) and other relevant financial information.
- 6.1.3 Applications that impact employees terms and conditions of employment must be accompanied by written proof that employees and/or their representatives/trade unions have been consulted and furthermore be accompanied by a record of their support or not of the application.
- 6.1.4 Applications must indicate the period for which the exemption is sought.

6.2 EXEMPTION PROCEDURE

- 6.2.1 The Council must open and maintain a register for each application which records the following:
- 6.2.1.1 date of receipt of application
 - 6.2.1.2 reference number
 - 6.2.1.3 name of applicant
 - 6.2.1.4 brief description of exemption application
 - 6.2.1.5 name of the Agreement and the clause/s from which exemption is sought
 - 6.2.1.6 date of validation of exemption application
 - 6.2.1.7 date of exemption hearing

Handwritten initials and a signature in the bottom right corner of the page.

- 6.2.2 Upon receipt of an application, the date received must be recorded in the register
- 6.2.3 The agent of the relevant District Office shall on receipt of an application scrutinise the application to ensure that the application is complete and valid.
- 6.2.4 Should the agent find the application to be incomplete, the agent shall send written communication to the applicant advising of this and what is required to complete the application
- 6.2.5 After the agent is satisfied that the application is complete, the application shall be considered valid and the agent shall record the date of validation accordingly.
- 6.2.6 Within five days from date of validation the agent shall verify the employer's consultation with the employees/trade union and report in writing whether the employees / trade union support or oppose the application.
- 6.2.7 Within seven days of receipt of the agent's report on the consultation process, the General Secretary shall arrange a date, time and venue for the hearing of the application.
- 6.2.8 The set down date for the hearing must not be later than 30 days of the validation of the application by the Agent.
- 6.2.9 The General Secretary shall notify the applicant in writing of the date, time and venue of the hearing.
- 6.2.10 In the event that the applicant does not attend the hearing, the Exemptions Committee will consider the application on the written application and supporting documents.
- 6.2.11 The General Secretary must within fourteen days of the exemption being granted advise the applicant of such decision in writing and issue a Licence of Exemption setting out the following:
- 6.2.11.1 The full names of the Applicant.
- 6.2.11.2 The provisions of the collective agreement from which the exemption has been granted.
- 6.2.11.3 The conditions subject to which the exemption is granted.
- 6.2.11.4 The period which the exemption will operate clearly stating the commencement and expiring dates.
- 6.2.12 Where the Committee does not approve an Application or part thereof or when deciding to withdraw an Exemption, the General Secretary must advise the applicant in writing within fourteen days of

⇒ M
16 75

therefor.

7. EXEMPTION APPEALS

7.1 Establishment of an Independent Appeal Body

- 7.1.1 In terms of section 32(3)(e) of the Act, the Council creates and maintains an Independent Exemptions Appeal Body to hear and decide appeals against an Exemptions Committee's refusal or partial refusal to grant an exemption or its withdrawal or partial withdrawal of an exemption.
- 7.1.2 An Independent Appeal Body must be appointed by the Council and may consist of one or more persons, as determined by the Council
- 7.1.3 No representative, office-bearer or official of a trade union or employers' organisation party to the Council may be a member of the Independent Exemptions Appeal Body.

7.2 APPLICATION PROCESS & PROCEDURE

- 7.2.1 An Applicant aggrieved by an Exemptions Committee's decision shall within **30 days** of being notified of the Exemptions Committee's decision have the right to appeal to the Independent Exemptions Appeal Body.
- 7.2.2 Should the appellant show good cause, the Independent Appeal Body may condone a late appeal.
- 7.2.3 A valid notice of appeal must be in writing clearly setting out the grounds on which the appeal is based and be accompanied by relevant supporting documentation.
- 7.2.4 Upon receipt of an appeal application, the General Secretary shall forward the appeal application together with the original application for exemption and supporting documents to the Independent Appeal Body for a decision
- 7.2.5 The General Secretary in consultation with the Independent Appeal Body will arrange a date, time and venue for the appeal hearing. The date of the hearing shall not be later than 30 days from which a

→ M

At

U

- 7.2.6 The Independent Appeal Body shall hear and determine appeals in any manner it considers appropriate to determine the application fairly and quickly.
- 7.2.7 The Independent Appeal Body shall render a decision within fourteen days from the last date of the appeal hearing
- 7.2.8 Should the Independent Appeal Body reverse a decision of the Exemptions Committee, the Council must issue the applicant with a licence of exemption accordingly
- 7.2.9 The Independent Appeal Body has discretion to order against the appellant payment of all costs incurred by the Council in arranging and conducting the appeal in the event of it upholding the decision of the Exemptions Committee

8. EXEMPTION CRITERIA

The Exemptions Committee and Independent Appeal Body must when considering an exemption application/appeal, take into account the following criteria:

- (a) any written and/or verbal substantiation provided by the applicant;
- (b) fairness to the employer, its employees and other employers and the employees in the industry;
- (c) whether an exemption, if granted, would undermine this Agreement or the collective bargaining process;
- (d) whether it will make a material difference to the viability of a new business, or a business previously outside the jurisdiction of the Council;
- (e) unexpected economic hardship occurring during the currency of the Agreement, and job creation and/or loss thereof.
- (f) the infringement of basic conditions of employment rights;
- (g) the fact that a competitive advantage might be created by the exemption;
- (h) comparable benefits or provisions where applicable;
- (i) the applicant's compliance with other statutory requirements such as the Occupational Injuries and Diseases Act or Unemployment Insurance; or
- (j) any other factor which is considered appropriate.

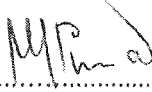
 M
A 9/15

SIGNED BY THE PARTIES IN DURBAN ON THIS 22nd DAY OF JULY 2015


M OOSTHUIZEN, Member of the Council

..... 


V MEMBINKOSI, Member of the Council

..... 

A BENJAMIN, Member of the Council

..... 

S NAIDOO, General Secretary of the Council

..... 

DEPARTMENT OF WATER AND SANITATION

NO. R. 1046

30 OCTOBER 2015

REGULATIONS RELATING TO ACCESS AND USE OF GOVERNMENT WATERWORKS AND SURROUNDING STATE-OWNED LAND FOR RECREATIONAL PURPOSES IN TERMS OF THE NATIONAL WATER ACT, 1998 (ACT NO. 36 OF 1998)

The Minister of Water and Sanitation intends, in terms of section 116 of the National Water Act, 1998 (Act No. 36 of 1998), 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, Department of Water and Sanitation, Private Bag X313, Pretoria, 0001; Fax no (012) 336 6987; e-mail mzanywan@dws.gov.za (for the attention of the Directorate: Integrated Environmental Engineering, Mr. Lucky Mzanywa) within two months of the date of publication of the notice.



MRS NOMVULA PAULA MOKONYANE, MP

MINISTER OF WATER AND SANITATION

Date: 27.06.15

SCHEDULE

Definitions

1. In these regulations, any word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned, and, unless the context indicates otherwise -

“accommodation” means facilities of any nature for the accommodation of day and overnight visitors;

“alien species” means –

- (a) a species that is not an indigenous species; or
- (b) an indigenous species translocated or intended to be translocated to a place outside its natural distribution range in nature but not an indigenous species that has extended its natural distribution range by natural means of migration or dispersal without human intervention;

“access point” means an authorised place of entry, including, but not limited to access gates;

“aquatic fauna” includes crustacea and mollusca and fish in general and the eggs, hatch, spawn or the young of fishes and of such fauna;

“bioprospecting” means bioprospecting as defined in section 1 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“commercial fishing” means spearfishing, crossbow fishing, gill netting or any method used for revenue generation at a government waterworks;

“commercial water use” means recreational water use for revenue generation, including organised sporting activities and events;

“competent authority” in relation to the control over recreational, conservation or tourism use of the relevant government waterwork or portion thereof includes-

- (a) the Minister;
- (b) any organ of state; or
- (c) any person designated by the Minister to carry out these functions;

“control” in relation to an alien or invasive species, means -

- (a) to combat or eradicate an alien or invasive species; or
- (b) where such eradication is not possible, to prevent, as far as practicable, the recurrence, the re-establishment, re-growth, multiplication, propagation, regeneration or spreading of an alien or invasive species;

“dangerous object” means any explosive or incendiary material, any explosive or incendiary device, any firearm, and any gas, material, weapon or other article, object or instrument which may be employed to cause bodily harm to a person, or to render a person temporarily paralysed or unconscious, or to cause damage to

property, as well as anything which the Minister of Police has by notice in the *Gazette* declared to be a dangerous object in terms of the Control of Access to Public Premises and Vehicles Act, 1985 (Act No. 53 of 1985);

“**event**” means competitions, sporting, entertainment, educational, recreational, religious, cultural, exhibitional, organisational, or similar activities hosted at a government waterwork;

“**event organiser**” means any person who plans, is in charge of, manages, supervises or holds an event or sponsorship rights to an event or in any manner controls or has a material interest in the hosting of an event;

“**explosive**” means-

- (a) any substance or a mixture of substances, in a solid or liquid state, which is capable of producing an explosion;
- (b) any pyrotechnic substance in a solid or liquid state, or a mixture of such substances, designed to produce an effect by heat, light, sound, gas or smoke, or a combination of these, as the result of non-detonative self-sustaining exothermic chemical reaction, including pyrotechnic substances which do not evolve gases;
- (c) any article or device containing one or more substances contemplated in paragraph (a);
- (d) any plastic explosive; or
- (e) any other substance or article which the Minister of Safety and Security has by notice in the *Gazette* declared to be an explosive in terms of the Explosives Act, 2003 (Act No. 15 of 2003);

“**firearm**” means a firearm as defined in section 1 of the Firearms Control Act, 2000 (Act No. 60 of 2000);

“**high impact water use**” means recreational water use which does or has the potential to impact detrimentally on a water resource or other water users of that water resources;

“**hunt**”, in relation to all species, includes -

- (a) to intentionally kill such species by any means, method or device whatsoever;
- (b) to capture such species by any means, method or device whatsoever with the intent to kill or breed;
- (c) to search for, lie in wait for, pursue, shoot at, tranquillise or immobilise, such species with the intent to kill; or
- (d) to lure by any means, method or device whatsoever, such species with the intent to kill, but excludes the culling of a listed threatened or protected species in a protected area or on a registered game farm or for culling of a listed threatened or protected species that has escaped from a protected area and has become a damage causing animal;

“**indigenous species**” means a species that occurs, or has historically occurred, naturally in a free state in nature within the borders of the Republic, but excludes a species that has been introduced as a result of human activity;

“introduce”, in relation to a species, means the introduction by humans whether deliberately or accidentally, of a species to a place outside the natural range or natural dispersal potential of that species;

“invasive species” means any species as defined in section 1 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“night” means the period of time between sunset and sunrise;

“operational plan” means a written plan, providing detailed information on the manner, purpose and extent of the operation of an impacting or high impact or commercial recreational water use, as approved by the Minister;

“recreational water use” means the use of government water works for recreational purposes and includes all activities that require the use of water, including the surface of water for –

- (a) events, the exclusive purpose of sport, tourism or leisure;
- (b) personal use including, but not limited to, religious and cultural practices;
- (c) activities which contribute to the general health, well-being and skills development of individuals and society;
- (d) the purposes of research and education; and
- (e) commercial water uses including but not limited to bioprospecting, film production, photography and advertising;

“resource management plan” means a written plan, for the management of and control over the water surface and water body of a water resource including a water surface and water body of a government waterworks and the surrounding state-owned land, approved by the Minister and in the absence of this resource management plan includes historic zoning plans, and sustainable utilisation plans;

“restricted area” means an area in which public access is prohibited and only authorised personnel are allowed;

“surface water sport” means water skiing, tubing, or other water sport in the water, on the water or under the water;

“vessel” means any conveyance floating on, in, or over water and designed for navigation on or in water, howsoever propelled and includes any canoe, lighter, floating platform, decked vessel, carrier vessel, or any vessel equipped with an inboard or outboard motor or any other craft, whether surface craft or submarine; and

“water skiing” means to ski on or in the water with or without the assistance of any kind of skiing apparatus while the water-skier is towed by a vessel by means of a towing-rope or motorised cableway and includes kite-surfing and parasailing.

Application of Regulations

2. These Regulations are, unless specified otherwise, applicable to water storage reservoirs of all government waterworks.

Control over government waterworks

3. (1) The Minister may, in writing and for a period of time, designate a competent authority, and assign to it the necessary powers, to manage and control government waterwork and surrounding state owned land.

(2) Such powers shall be exercised for such period subject to the provisions of these regulations and terms and conditions which the Minister may deem fit.

(3) The competent authority must keep records of aspects relating to the water use such as the nature of recreational activities, number of visitors and incidents and it must make the information annually available to the Minister.

Implementation of a resource management plan on access and use of a government waterwork

4. (1) The Minister has developed resource management plans as the management tool for the recreational use of a government waterwork. These plans are site specific. The proposed institutional structures, once established, must monitor the implementation of a resource management plan.

(2) The Minister may reserve as part of a resource management plan an area in a government waterwork, whether on land or on water, for the use of specified groups or persons, and no person shall be permitted in the area reserved for the use of such group or person, except with the permission of the Minister, which will be subject to a zoning plan contemplated in a resource management plan and the approval process contemplated in Regulation (6).

(3) Minister may reserve an area in government waterwork for specific purposes and no person may make use of such defined areas for any purpose other than the purposes for which they have been reserved.

Access to government waterworks

5. (1) No person may enter a government waterwork without the written approval of the competent authority.

(2) Any person entering a government waterwork or any part thereof must, if requested by the competent authority, furnish his or her full contact details.

(3) Any person who wishes to enter any part of a government waterwork where an access point does not exist must get written approval from the competent authority.

(4) Any person who wishes to enter a government waterwork in any vessel must ensure that he or she and the vessel comply with the requirements of the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published under Government Notice No.R. 705 of 2007 of 8 August 2007.

(5) Failure to produce any required documentation in terms of the Merchant Shipping (National Small Vessel Safety) Regulations, 2007 and to provide safety appliances and equipment for the specific vessel, shall lead to refusal of access to the government waterwork.

(6) Invasive alien species strategies must be complied with at all times.

(7) A person who engages in water use for recreational purposes must ensure that –

- (a) he or she takes responsibility to exercise due care to other users;
- (b) he or she is familiar with the Resource Management Plan information and any conditions of that government waterwork before accessing the government waterwork and must obtain relevant information from the Department of Water and Sanitation or the competent authority;
- (c) cooperation is given to any authorised personnel, including, but not limited to the Department of Water and Sanitation personnel, implementing agencies, safety officers, wash bay operators, the South African Police Services or any other emergency personnel;
- (d) all applicable safety rules and notices, warnings, navigational aids and signals are obeyed;
- (e) any reservation of areas for specified purposes are complied with;
- (f) a water resource and the associated ecosystem are not detrimentally affected;
- (g) buoyage for restricted areas for security zones at the dam wall, containment of invasive and alien species or for conservation purposes are respected, observed and not tampered with;
- (h) scouring, erosion or sedimentation of the watercourse is prevented;
- (i) indigenous riparian vegetation is not removed or damaged;
- (j) the habitat of aquatic biota is not disturbed; and
- (k) waste or water containing waste is lawfully disposed of.

(8) A person in control of any vessel or surface water sport in or on a submerged area -

- (a) must not be under the influence of alcohol or a drug having a narcotic effect; and
- (b) is responsible for the safety of any passengers

(9) No person other than an authorised official or any other person acting under the specific authority of a competent authority shall be in possession of any dangerous object in a government waterwork.

(10) The competent authority reserves the right to search vehicles and persons for dangerous objects and may refuse a person access to the government water work if such dangerous objects are found.

Application and approval of impacting and commercial recreational water use

6. (1) A person who intends to engage in any activity that may impact on a government waterwork, must apply in writing for the approval of an operational plan for such recreational water use to the competent authority before commencing with the activity.

(2) A person who is currently engaging in any activity that may impact on a government waterwork, under the auspices of a lease agreement or any other appropriate permit, must apply in writing for approval of an operational plan for such recreational water use within 60 days of the date on which he or she is notified in writing by the competent authority to do so.

(3) The competent authority must, as soon as reasonably practicable but not more than 90 days after the submission of the operational plan by the applicant, consider that plan for approval, if the applicant has demonstrated the capacity, or has provided for the capacity, to mitigate and manage negative impacts on the water resource.

(4) The competent authority may call for additional information from the person who engages in water use for recreational purposes contemplated in subregulations (1) and (2) above, and may direct that the operational plan in question be adjusted in the way that the responsible authority may require.

(5) If the competent authority deems the recreational use unfit for the government waterwork, it may refuse the proposed activity or require that an existing activity be terminated.

(6) Any person who intends to engage, or is currently engaging in, commercial activities on a government waterwork, state land, or on private land using the water surface of the government waterwork, must comply with Treasury Regulation 16, issued under the Public Finance Management Act, 1999 (Act No. 1 of 1999).

Application and approval of events and competitions

7. (1) Events and competitions may only take place with the written permission of the Minister.

(2) The competent authority or an event organiser, must adhere to the requirements set out in the Safety at Sports and Recreational Events Act, 2010 (Act No. 2 of 2010) to ensure the physical safety and security of persons and the property at an event.

Photography, film production and advertising

8. A competent authority may impose charges for entrance to and the use of the facilities at government waterwork in relation to photography, film production and advertising.

Fires

9. No person shall make a fire in an undesignated area.

Hygiene and waste management

10. (1) No person shall, in a government waterwork deposit, leave any litter, bottle, broken glass, pottery, plastic article, rubbish, refuse, seeds, fruit or vegetable matter or other waste material, except in an area or receptacle provided for that purpose

(2) No person shall dump or discharge in any place on land or into the water of a government waterwork, any refuse, waste or material of any kind whatsoever.

(3) All effluent from boats and accommodation facilities within 1:100 floodline must be contained and disposed of to a licensed facility.

Camping and accommodation

11. (1) No person may stay overnight in a government waterwork except in official accommodation or on sites reserved or is available for that purpose.

(2) No night-time activities are allowed on the water surface of a government waterwork and licensed vessels providing accommodation must be moored at night at designated areas.

Damage to property

12. A person who intentionally or negligently causes damage to any government waterwork or other property within a government waterwork is liable for the damage.

Protection of biodiversity

13. (1) Any person entering a government waterwork may not hunt, kill, injure, capture or disturb any fauna or destroy the nest or eggs of any fauna and aquatic fauna must be protected at all times.

(2) Any person entering a government waterwork may not cut, uproot or destroy any flora or remove any flora from such area without the permission of the competent authority.

(3) Any person who wishes to access any part of a government waterwork for bioprospecting or breeding of any species must obtain prior approval from the competent authority.

(4) In the event of indigenous species threatening the operation and maintenance of a government waterwork, the competent authority must apply to the responsible environmental authority for the removal of such species.

(5) Any person who enters government waterwork may not introduce plant or animal species without written approval from the competent authority.

Rules and prohibited activities

14. (1) The Minister may make general or specific rules for the safety of the public in a specific government waterwork and cause them to be posted up at the entrance of that government waterwork.

(2) Where an electric or mechanical driven infrastructure is sited on a government waterwork, recreational activities may only occur at a minimum distance of 50 meters away.

(3) No person may undertake or pursue any activity which endangers the operation or safety of the infrastructure at a government waterwork.

(4) Commercial fishing is prohibited at a government waterworks unless approved by the Minister.

Offences and Penalties

15. Any person who contravenes or fails to comply with regulations 4, 5,6,7,8,9,10,11,12,13, and 14 is guilty of an offence and liable, on conviction, to a fine or imprisonment to a period not exceeding five years.

Repeal

16. The Regulations published under Government Notice No. R.654 of 1 May 1964 is hereby repealed.

Application of other laws

17. Any person who has been granted permission by the Minister to access and use a government waterwork is not exempted from having to comply with the provisions of any other laws.

Commencement

18. These Regulations shall come into effect on the date of publication thereof in the *Gazette*.