

No. R. 590

22 July 2011

LABOUR RELATIONS ACT, 1995**BARGAINING COUNCIL FOR THE FURNITURE MANUFACTURING INDUSTRY,
KWAZULU NATAL: EXTENSION OF PERIOD OF OPERATION OF THE
PROVIDENT FUND AND MORTALITY BENEFIT ASSOCIATION COLLECTIVE
AGREEMENT**

I, MILDRED 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 Notice No. R. 589.....by a further period ending 31 July 2016.

MN OLIPHANT**MINISTER OF LABOUR**

SCHEDULE

BARGAINING COUNCIL FOR THE FURNITURE MANUFACTURING INDUSTRY, KWAZULU NATAL

PROVIDENT FUND AND MORTALITY BENEFIT ASSOCIATION

COLLECTIVE AGREEMENT

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

KwaZulu-Natal Furniture Manufacturers' Association

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

National Union of Furniture and Allied Workers' of South Africa

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

CHAPTER 1

1. SCOPE OF APPLICATION OF AGREEMENT

- 1 The terms of this Agreement shall be observed in the Furniture Manufacturing Industry, KwaZulu Natal-**
 - (a) by all employers who are members of the employer's organisation and by all employees who are members of the trade union, who are engaged or employed therein, respectively ;**
 - (b) in Area A, which consists of the Magisterial Districts of Camperdown, Chatsworth, Durban, Inanda, Lower Tugela, Pietermaritzburg, Pinetown and Mount Currie ;**
- 2 Notwithstanding the provisions of sub-clause (1), the provisions of this collective agreement shall-**
 - (a) only apply in respect of employees for whom minimum wages are prescribed in the main collective agreement including a working Partner, Director or Member as defined under the definitions ;**
 - (b) apply to learners in so far as they are not inconsistent with the provisions of the Skills Development Act, 92 of 1998 or any contracts entered into or any conditions fixed thereunder ;**
 - (c) Notwithstanding the provisions of this clause, employers who carry on not more than one business within the scope of application of this collective agreement and who employ less than five employees at all times in connection with such business, shall be entitled to the phasing in concessions as contained within Clause 1(3) of the main collective agreement, provided that for the purpose of giving effect to Clause 12(1)(d) of this agreement, the contribution shall be based on the wage**

prescribed for the highest paid employee in Schedule A of the main collective agreement.

- (d) The provisions of Sub-Clause 2(c) shall not apply where an employer has more than four employees in his employ at the date of the coming into operation of this collective agreement, and subsequently reduces this number of employees to fewer than five.
- (e) The terms of this collective agreement shall not apply to non-parties in respect of clauses 1 (1) (a), 2 and 4.

2. PERIOD OF OPERATION OF AGREEMENT

This agreement shall come into operation for the parties to this agreement as agreed upon and for non-parties on such date as may be decided upon by the Minister of Labour in terms of Section 32 of the Labour Relations Act, 1995 as amended and shall remain in force until 31 July 2016.

3. GENERAL PROVISIONS.

The provisions as contained in clauses 3 to 6, 7(1)(a)(ii) to 23 and Annexure A of the collective agreement published under Government Notice No. R. 244 of 27 February 2004, R.1139 of 8 October 2004, R. 192 of 11 March 2005, R. 1281 of 15 December 2006, R. 1172 of 14 December 2007, R. 851 of 15 August 2008 and R. 1122 of 24 October 2008 and R.879 of 04 September 2009 (as further amended and re-enacted from time to time) shall apply to employers and employees.)

4. SPECIAL PROVISIONS.

The provision as contained in clause 7(1)(a)(i) (hereinafter referred to as the "Former Agreement", as further amended and re-enacted from time to time, shall apply to employers and employees.)

5. CLAUSE 3: DEFINITIONS

1. Delete the following definition as it appears in the existing text under clause 3.
Definitions :

"FSB" means the Financial Services Board.

2. Substitute the following definition of "Furniture Industry" as it appears in the existing text under clause 3. Definition, for the following :

"Furniture Manufacturing Industry": means without in any way limiting the ordinary meaning of the expression the manufacture of furniture either in whole or in part of all types of furniture irrespective of the materials used and shall include the following :

(a) Furniture :

Assembling of all items and / or components of furniture, repairing, spraying, polishing, re-polishing, wood machining, veneering, woodturning, carving, painting, staining, wood bending and laminating, the making of and / or repairing of frames, loose covers and / or cushions. Furniture manufacturing shall also include hotel, tea room or restaurant furniture, office, church, school, bar and theatre furniture, cabinets for musical instruments and radio cabinets. The veneering, laminating, papering and / or wrap of all types of doors, large or small, including the manufacturing of all items or components, whether or not such items are intended to be free standing, built in and / or affixed to a building as listed in (i) to (vii) below :

- (i). dressers, cupboards, units for the housing of sinks and appliances, grocery cupboards, shelves, pigeon holes, worktops, tables, chairs, benches and pelmets ;

- (ii) multipurpose cabinets which can be used either singly or in combination with each other for various purposes, including kitchen dressers, kitchen cupboards and fittings including cupboards and / or cabinets in any other part of a building ;
- (iii) headboards and pedestals for beds, wardrobes and wall unit;
- (iv) other cabinets and cupboards, benches, tables, chairs, benches for laboratories, shops, offices or banks ;
- (v) counters, shelves and cupboards for use in bars, hotels, shops, offices or banks
- (vi) the assembly of and fitting in any building of any type of furniture ;
- (vii) the repairing or remedying in any building of any type of furniture ;

(b) Bedding :

The manufacture and / or processes involved in the manufacture of bedding, including all types of mattresses, spring mattresses, overlays, pillows, bolsters, spring units, bed spring mattresses and studio couches, which is designed for seating and / or conversion into a bed and of which the frame is constructed mainly of metal and the seating and / or sleeping surface consists of a mattress and / or cushion.

(c) Upholstery :

The upholstering and / or re-upholstering of all types of furniture, or item of furniture, bedding, pelmets and mattress bases.

(d) Curtain Making :

The making, altering, repairing and / or fitting of curtains, rails, rods and pelmets.

(e) Cane Furniture :

The manufacturing of furniture made principally of wicker, cane and / or grass.

(f) Ancillary Items :

The manufacture in a factory, building and / or elsewhere in conjunction with items specified under (a) to (e) products of which wood constitutes the main component, which shall include plywood, veneer boards, chip board, laminated board, block board and / or any similar product for use in ;

(i). the erection, completion, renovation, repair, maintenance or alteration of permanent finish of buildings or structures, including but not limited to mouldings, skirting boards, panelling, shelving, banisters, partitioning and shall include doors and door frames, windows and window frames.

(g) Provided that the manufacturing of metal furniture, metal bedsteads and furniture manufactured wholly from plastic materials, shall be excluded.

6. CLAUSE 4: ADMINISTRATION.

Substitute the following existing subclause 4.2(a)

- 2 (a) The control and management of funds by the Council shall be vested in a Management Committee consisting of the Chairperson and Vice-Chairperson of the Council, together with four employer and four employee representatives, who shall be delegates to the Council and shall be appointed by the Council on to the Management Committee. For each representative, an alternate shall be appointed by the Council from its Members. The Chairperson and Vice-

Chairperson of the Council shall be the Chairperson and Vice-Chairperson of the Management Committee, respectively.

7. CLAUSE 5: ENFORCEMENT OF COLLECTIVE AGREEMENT.

Substitute the existing Clause 5 for the following :

- 1 Despite any other provisions of this collective agreement, the Council may appoint one or more persons and may request the Minister of Labour to appoint such persons as designated agents in terms of Section 33 (1) of the Act to promote , monitor and enforce compliance with this collective agreement.
- 2 In the event of non-compliance with this collective agreement, a designated agent may secure compliance by –
 - (a) publicising the contents of this Agreement.
 - (b) investigate complaints.
 - (c) conduct inspections.
 - (d) issue a compliance order ; or
 - (e) adopt any other means the Council may have approved of ; and
 - (f) perform any other function which is conferred on or imposed on the agent by the Council.
- 3 In the event that non-compliance prevails after the issuance of a compliance order in terms of sub-clause 2 (d) above, the agent must :
 - (a) submit a report to the Secretary of the Council, specifying that compliance had not been achieved.
- 4 Upon receipt of such report, the Secretary of the Council shall –
 - (a) Appoint an arbitrator from the list of arbitrators supplied by the CCMA to arbitrate the matter ; or

- (b) take such steps as deemed necessary to give effect to any agreement reached after the compliance order was issued in resolving the matter.
 - (c) An arbitrator appointed in terms of this Clause shall have all the powers assigned to an arbitrator as contemplated by the Act, including but not limited to the charges and penalties as further contemplated by Section 33A of the Act read with the applicable Regulations.
- 5 The Secretary shall make application to certify the arbitration award or settlement agreement, whichever applies, as order of the Labour Court.
- 6 A designated agent appointed under Section 33 (1) of the Act, shall in addition to the powers referred to in this Clause, have the powers as assigned to designated agents as set out in Schedule 10 and Section 142 of the Act, read with the changes required by the context.

**8. CLAUSE 6: DISPUTES AND DISPUTES ABOUT THE
INTREPRETATION OF THIS COLLECTIVE AGREEMENT**

Substitute the following for the existing Clause 6. Disputes and disputes about the interpretation of this Collective Agreement.

- 1 The Council shall be the body to perform dispute resolution services within the Industry - Provided that :
- (a) The Council is accredited by the CCMA ; and
 - (b) the persons appointed to execute the dispute resolution functions are competent to do so.
 - (c) The Council shall adopt the Rules of the CCMA in performing its dispute resolution functions.
- 2 Disputes about the Interpretation of this collective agreement :

- (a) If there is a dispute about the interpretation of any provisions of this collective agreement, any party to the dispute may refer the dispute to the Council.
- (b) The referring party must satisfy the Council that a copy of the referral has been served on all other parties to the dispute.
- (c) The Council must attempt to resolve the dispute through conciliation.
- (d) The Secretary of the Council may appoint a suitable person to conciliate the dispute from the list of Commissioners made available by the CCMA from time to time, or as otherwise agreed between the parties to the dispute.
- (e) In the event that the dispute remains unresolved, any party to the dispute may request the Secretary of the Council to appoint an arbitrator to arbitrate the dispute : -
 - (i) a similar procedure be followed as set out in sub-clause (d) above in respect of arbitration ; and
 - (ii) the rules of the CCMA shall apply to arbitrations under this section.

9. CLAUSE 7: EXEMPTIONS.

Substitute the existing Clause 7: Exemptions for the following :

1 General :

- (a) The Council may grant exemption from any of the provisions of this collective agreement and shall be dealt with in the following manner :
 - (i) **Parties:** Any application for exemption by a Party to the collective agreement shall be dealt with as decided by the Council from time to time.

- (ii) **Non Parties; Any application by a non-party to the collective agreement shall be dealt with as follows :**
- (b) **The application shall be in the prescribed form and shall include the following :**
 - (i) **the reason for the application sought ;**
 - (ii) **latest audited financial statements of the applicant ;**
 - (iii) **a business plan detailing as to how applicant is going to work towards compliance ;**
 - (iv) **schedule of names and job categories of employees so affected ;**
 - (v) **current wages earned ;**
 - (vi) **confirmation that employees and / or their representatives were consulted and there is consent towards the application.**
- (c) **An application shall not be considered in the event that :**
 - (i) **the employees and / or their representatives are not in support of the application ;**
 - (ii) **the period for which exemption is being sought is already covered by an arbitration award.**

2 Criteria to be considered in an Application for Exemption :

- (a) **The application shall not be in conflict with the primary objects of the Act ;**
- (b) **the interests of the Industry shall be taken into account and whether the granting of the exemption would –**
 - (i) **unfairly impact upon fair competition between employers ;**
 - (ii) **unfairly undermine the collective bargaining process ;**

- (iii) encourage unfair exploitation of workers in the industry;
 - (iv) wage and wage related exemptions may only be granted for duration of the Agreement.
- (c) Exemptions from this collective agreement shall, if granted, not exceed the duration of the collective agreement.

3 Administration :

- (a) All applications for exemption, shall be forwarded to the Secretary of the Council.
- (b) The Secretary of the Council shall in the case of the granting of an exemption, issue a license, jointly signed by the Chairperson and Secretary of the Council, setting out –
 - (i) the name of the applicant ;
 - (ii) the provisions of this Agreement from which exemption is granted ;
 - (iii) any conditions or pre-conditions attached to the said exemption so granted ;
 - (iv) the period for which the exemption shall be in operation;
- (c) The Secretary of the Council shall :
 - (i) number consecutively all licenses issued ;
 - (ii) retain a copy of each license issued ;
 - (iii) forward a copy to the applicant.
- (d) The Council may on good cause shown, give the holder of an exemption license 30 days' notice of withdrawal of the exemption. The holder of such exemption may appeal to the Exemptions Appeal Board and the provisions of Clause 7A shall apply read with the changes to the context.

7A. EXEMPTIONS APPEAL BOARD**1 Establishment :**

- (a) In terms of Section 32 of the Act, the Council shall establish an independent body to be known as the Exemptions Appeal Board, to consider and determine any appeal brought against a refusal of a non-party application for exemption by the Council.
- (b) The Appeal Board, in considering the appeal, must have due regard for the views expressed by the Council, employees and / or their representatives as well as representations made by other employers within the Industry.
- (c) All applications to the Appeal Board must be lodged with the Secretary of the Council by no less than 6 (six) weeks from the date of the delivery of the Council's exemption finding on the Applicant.
- (d) All applications shall be in writing and heads of argument must be filed seven days prior to the convening of the hearing by the Appeals Board.
- (e) All applicants shall pay a processing fee of R1,000.00 (one thousand rand).
- (f) The applicants shall be required to attend the hearing, failing which the Board shall be entitled to decide on the matter in absentia.

10. CLAUSE 12: CONTRIBUTIONS.

Delete under the existing Chapter II clause 12, sub-clause 12(4) and re-number the sub-clause following accordingly

11. CLAUSE 17: MEMBERSHIP.

Substitute the following sub-clause 17(2)(b)

"(b) When a member severs his connection with the industry, and the dependants of such former member shall thereupon not be entitled to the benefits specified by clause 19 of this Chapter."

12. CLAUSE 18: CONTRIBUTIONS.

Substitute the following sub-clause 18(1)

"(1) in respect of a member referred to clause 17 (1) (a), be diverted in equal proportions in terms of clause 12 (4) from the contributions prescribed in clause 12 (1) (a) of this Agreement ; and"

Signed at Durban on this 24th day of February 2011

G. BOSTOCK
Chairperson

S. GOVENDER
(Vice-Chairperson)

G.J.P. BLIGNAUT
Secretary of the Council