

No. R. 887

2 November 2012

LABOUR RELATIONS ACT, 1995**FURNITURE BARGAINING COUNCIL: EXTENSION TO NON-PARTIES OF
THE COLLECTIVE BARGAINING FEE COLLECTIVE 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 Furniture Bargaining Council and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the agreement, shall be binding on the other employers and employees in that Industry, with effect from**12 November 2012**..... and for the period ending 30 June 2013.

MN OLIPHANT**MINISTER OF LABOUR**

SCHEDULE**FURNITURE BARGAINING COUNCIL****COLLECTIVE BARGAINING FEE COLLECTIVE AGREEMENT**

In accordance with the provisions of the Labour Relations Act, 1995 (Act 66 of 1995)(as amended), made and entered into by and between the

**Furniture, Bedding & Upholstery Manufacturers' Association for the Greater Northern
Region**

(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

and

Chemical, Energy, Paper, Printing, Wood and Allied Workers Union (CEPPWAWU)

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

being the parties to the Furniture Bargaining Council.

CHAPTER 1

1. SCOPE OF APPLICATION

1.1 The terms of this Agreement shall be observed in the Furniture, Bedding and Upholstery Manufacturing Industry-

1.1.1 by all employers who are members of the party employers' organisation, which is party to this Agreement and by all employees who are members of the party trade unions, which are party to this Agreement and the Council's Main Collective Agreement, and who are engaged or employed in the Furniture, Bedding and Upholstery Manufacturing Industry, respectively;

1.1.2 in the Provinces of Gauteng, North West, Mpumalanga, Limpopo and Free State.

1.2 Notwithstanding the provisions of clause 1.1 the provisions of this Agreement-

1.2.1 apply only to employees for whom wages are prescribed in the Council's Main Collective Agreement and to the employers of such employees; and

1.2.2 apply to learners under the Skills Development Act, 1998, or any contracts entered into or any conditions fixed thereunder.

2. PERIOD OF OPERATION OF AGREEMENT

This Agreement shall, in terms of section 32 of the Act, come into operation on such date as may be fixed by the Minister of Labour and shall remain in force for the period ending 30 June 2013.

3. TERMS AND CONDITIONS

A separate Collective Bargaining Fee Agreement is hereby agreed to and the provisions of the Labour Relations Act, 1995 (Act 66 of 1995)(as amended)(hereinafter referred to as the Act), where applicable, shall apply to this Agreement. The object of this Agreement is to ensure that all employees and employers in the scope of the Council who receive the benefits of collective bargaining contribute towards its costs.

This Agreement shall be subject to the respective parties being representative, as required by section 25 of the Act, of employees or employers who are covered by the Main Collective Agreement of the Furniture Bargaining Council as verified by the Department of Labour from time to time. Accordingly, the application of this agreement to either of the parties shall be subject to that party being representative.

4. DEFINITIONS

Any expressions used in this Agreement which are defined in the Labour Relations Act, 1995, shall have the same meaning as in that Act and any reference to an Act shall include any amendments to such Act, and unless the contrary intention appears, words importing the masculine gender shall also include the feminine gender and vice versa further, unless inconsistent with the context-

“Act” means the Labour Relations Act, 1995 (Act 66 of 1995)(as amended);

“Collective Bargaining Fee” means the fee set out in clause 5 of this Agreement;

“Council” means the Furniture Bargaining Council;

“Furniture, Bedding and Upholstery Manufacturing Industry” or “Industry” means; without in any way limiting the ordinary meaning of the expression, the industry in which employers and their employees are associated for the manufacture, either in whole or in part, of all types of furniture and bedding as well as upholstery and/or re-upholstery and will, inter alia, include the following:

(a) Furniture

Repairing, staining, spraying, polishing, re-polishing, making loose covers and/or cushions, wood machining, veneering, woodturning, carving, assembling, painting, wood bending and laminating. Furniture manufacturing will also include the manufacturing, repairing, polishing, re-polishing, staining, spraying of pianos, organs, kitchen cupboards, attached wall cupboards, built-in cupboards, free standing bars or built-in bar counters, cane, wicker or grass furniture, cabinets including cabinets for musical instruments and radios, wireless or television cabinets, bathroom cupboards, cupboard tops and furniture for tea-rooms, restaurants, offices, churches, schools, libraries, other educational institutions, conference centres and theatres but excluding the manufacturing of furniture made mainly of metal and/or plastic materials.

(b) Bedding

The manufacturing, repairing, covering, re-covering of mattress bases, mattresses, spring mattresses, overlays, bolsters, pillows, cushions for studio couches, spring units, box-spring mattresses and studio couches but excluding the manufacturing of bedding made mainly of metal and/or plastic materials.

“Studio Couch” means an article of furniture, which is designed for seating and for conversion into a double bed or two or more beds and of which the frames are constructed mainly of metal and the seating and/or sleeping surfaces consist of mattresses and/or cushions.

(c) Upholstery

The upholstering or re-upholstering of any furniture, or item of furniture, bedding, pelmets and mattress bases.

5. COLLECTIVE BARGAINING FEE

- 5.1 A Collective Bargaining Fee is payable by an employer who is not a member of the representative employers' organisation known as the Furniture, Bedding & Upholstery Manufacturers' Association for the Greater Northern Region, although such an employer is eligible for membership thereof but is not compelled to be a member thereof.
- 5.2 For the purposes of this agreement, "representative employers' organisation" means a registered employers' organisation whose members employ the majority of employees in the furniture, bedding and upholstery manufacturing industry in the scope of the Council.
- 5.3 This Collective Bargaining Fee Agreement is binding on all employers who are not members of the representative employers' organisation, being the non-party employers in the furniture, bedding and upholstery manufacturing industry and in the scope of the Council's Main Agreement
- 5.4 The prescribed Collective Bargaining Fee shall be equivalent to or less than the amount of the prevailing membership fees payable by the employer members of the Furniture, Bedding & Upholstery Manufacturers' Association for the Greater Northern Region to the same association.
- 5.5 The prescribed Collective Bargaining Fee payable by employers who are not members of the employers' organisation known as Furniture, Bedding & Upholstery Manufacturers' Association for the Greater Northern Region, who is a party to this Agreement, shall be as follows:

Number of employees employed	Monthly membership fees
0–15	R 307-80
16-50	R 433-20
51-100	R 615-60
101-200	R 912-00
201+	R1 140-00

- 5.6 Every non-party employer shall together with the Collective Bargaining Fee also submit to the Secretary of the Council, at the same time, a monthly return form reflecting the amount of the Collective Bargaining Fee due on the return form as specified by the Council from time to time.
- 5.7 The Secretary of the Council shall deposit all moneys received as Collective Bargaining Fees in terms of clause 5.5 into a bank account of the Council.
- 5.8 The prescribed Collective Bargaining Fee must be paid by the employers as identified in clause 5.3 to the Council by the 10th day of each month following the month in which it became due and the same Collective Bargaining Fee must be paid by the Council monthly to the Furniture, Bedding & Upholstery Manufacturers' Association for the Greater Northern Region.
- 5.9 The Secretary of the Council shall transfer all moneys received as Collective Bargaining Fees into a separate bank account administered by the party employers' organisation.
- 5.10 Despite sub-clause 5.9, a conscientious objector may request the Council in writing to pay his Collective Bargaining Fees into a fund administered by the Department of Labour.
- 5.11 No Collective Bargaining Fee may be:
- 5.11.1 paid to a political party as an affiliation fee; or

- 5.11.2 contributed in cash or kind to a political party or a person standing for election to any political office; or
- 5.11.3 used for any expenditure that does not advance or protect collective bargaining and the socio-economic interests of employers in the scope of the Furniture Bargaining Council.
- 5.12 The provisions of sections 98 and 100 (b) and (c) of the Act apply, read with the changes required by the context, to the separate account referred to in sub-clause 5.9.
- 5.13 Any person may inspect the auditor's report, in so far as it relates to an account referred to in sub-clause 5.9.
- 5.14 The Registrar must provide a certified copy of, or an extract from, any of the documents referred to in clause 5 to any person who has paid the prescribed fees.
- 5.15 If an employer or an employers' organisation or any interested person or organisation alleges that the representative employer's organisation is no longer a representative employers' organisation as envisaged in sub-clause 5.2 it must give the employers' organisation written notice of the allegation, and must allow the employers' organisation 90 days from the date of the notice to prove that it is a representative employers' organisation.
- 5.16 If, within the 90-day period, the representative employers' organisation fails to prove that it is a representative employers' organisation, the employer or employers' organisation or interested person or organisation making the allegation, must give the employers' organisation which claims to be representative notice of its intention to request the Minister of Labour to withdraw the extension of this agreement to non-parties.
- 5.17 If the extension of this agreement to non-parties is withdrawn by the Minister of Labour for any reason, the provisions of sub-clauses 5.8 and 5.9 shall apply until all the Collective Bargaining Fees due up until the date of the withdrawal of this Agreement have been received and paid out in accordance with sub-clauses 5.8 and 5.9.

6. UNPAID COLLECTIVE BARGAINING FEES

- 6.1 Should any amounts due to the Council in terms of this agreement not be received by the Council by the 10th day of the month following the month in respect of which the amounts are payable, the employer shall forthwith be liable for and be required to pay interest on such amounts or on such lesser amounts that remain unpaid at a rate which does not exceed the maximum rate as prescribed by the Prescribed Rate of Interest Act, 1975 (Act 55 of 1975)(as amended), calculated from the 11th day of the month until the day upon which the payment is actually received by the Council. The Council shall be entitled at its absolute discretion to waive payment of such interest or part thereof in any individual instance.
- 6.2 In the event of the Council incurring any costs or becoming obliged to pay any collection costs and commission by reason of the failure of the employer to make any payment on or before the applicable due date, the employer shall then also be liable to forthwith pay all such collection costs and commission to the Council and the Council shall be entitled in its absolute discretion to allocate any payment received from such an employer firstly to such costs, collection commission and interest, and thereafter to the reduction of the unpaid Collective Bargaining Fees.
- 6.3 Disputes about the interpretation, application or enforcement of this agreement shall be resolved in accordance with the Dispute Resolution Procedure prescribed in the Furniture Bargaining Council's Main Collective Agreement.

7. EXEMPTIONS

7.1 Exemptions Body and Independent Appeal Body

An exemptions body and an independent appeal body is hereby established to consider all applications for exemptions from the provisions of this agreement and to hear and decide, as soon as possible and according to the prescribed criteria, any appeal against-

7.1.1 the Bargaining Council's refusal of a party's or non-party's application for an

exemption from the provisions of this agreement; and

7.1.2 the withdrawal of an exemption by the Bargaining Council.

7.2 Administration

7.2.1 Any person bound by this agreement may apply for exemption from any of the provisions of this agreement.

7.2.2 An application for exemption shall be in writing on the Bargaining Council's prescribed application form, fully motivated, and served on the Bargaining Council. The Applicant or the Appellant, depending on the nature of the process, must satisfy the Body concerned that a proper application or appeal has been served on the appropriate body.

7.2.3 The Bargaining Council shall issue to every person to whom an exemption has been granted by either the Exemptions Body or the Independent Appeal Body, a notice of exemption, setting out the following:

7.2.3.1 the full name of the person(s) or establishment concerned;

7.2.3.2 the exact provision(s) of this agreement from which the exemption has been granted;

7.2.3.3 the conditions subject to which the exemption was granted;

7.2.3.4 the duration of the exemption; and

7.2.3.5 the date from which the exemption shall operate.

7.2.4 The Bargaining Council must ensure that:-

7.2.4.1 all notices of exemption are issued to the applicants;

7.2.4.2 a copy of each notice is retained by the Bargaining Council.

7.2.5 The Bargaining Council may, on good cause shown, give the holder of an exemption 30 days' notice of its intention to apply to the Independent Appeal Body for the withdrawal of the exemption.

7.2.6 The following processes and criteria shall be considered with regard to an application for exemption from the provisions of the Collective Bargaining Fee collective agreement concluded in the Bargaining Council:

In considering an application for exemption or an appeal against a refusal of exemption, the Bargaining Council or the Independent Appeal Body shall consider all recommendations submitted to it, the views expressed by the Bargaining Council, employer(s), as well as any other representations received in relation to that application and the possible effect of the exemption on competitors and others;

7.2.7 the exemption may not contain terms and conditions that would have an unreasonably detrimental effect on the fair, equitable and uniform application in the Industry of any Collective Bargaining Fee collective agreement concluded in the Bargaining Council;

7.2.8 no exemption in terms of this agreement, may be granted for an indefinite period or as a total (blanket) exemption;

7.2.9 no exemption may be granted retrospectively for any liabilities incurred by an employer in terms of this agreement, which became payable by the employer to the Council prior to the date on which the application for such an exemption was received by the Council.

Agreement signed at Johannesburg on this 10th day of April 2012.

P LUNGA

Chairman of the Council

K CHAUKE

Vice-Chairman of the Council

WA JANSE VAN RENSBURG

General Secretary