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GOVERNMENT NOTICES GOEWERMENSKENNISGEWINGS

DEPARTMENT OF LABOUR DEPARTEMENT VAN ARBEID

No. R. 556

22 June 2001

LABOUR RELATIONS ACT, 1995

CANCELLATION OF GOVERNMENT NOTICE

MOTOR INDUSTRY BARGAINING COUNCIL—MIBCO: ADMINISTRATIVE COLLECTIVE AGREEMENT

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby, in terms of section 32 (7) of the Labour Relations Act, 1995, cancel Government Notice No. R. 256 of 23 March 2001, with effect from 2 July 2001.

M. M. S. MDLADLANA

Minister of Labour

No. R. 556

22 June 2001

WET OP ARBEIDSVARHOUDINGE, 1995

INTREKKING VAN GOEWERMENSKENNISGEWING

MOTORNWERHEIDBEDINGINGSRAAD—MIBCO: ADMINISTRATIEWE KOLLEKTIEWE OOREENKOMS

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, trek hierby, kragtens artikel 32 (7) van die Wet op Arbeidsverhoudinge, 1995, Goewermenskennisgewing No. R. 256 van 23 Maart 2001 in, met ingang van 2 Julie 2001.

M. M. S. MDLADLANA

Minister van Arbeid

No. R. 557

22 June 2001

LABOUR RELATIONS ACT, 1995

MOTOR INDUSTRY BARGAINING COUNCIL—MIBCO: EXTENSION OF NEW ADMINISTRATIVE COLLECTIVE AGREEMENT TO NON-PARTIES

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of section 32 (2) of the Labour Relations Act, 1995, declare that the Collective Agreement which appears in the Schedule hereto, which was concluded in the Motor Industry Bargaining Council—MIBCO 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 2 July 2001, and for the period ending 31 March 2006.

M. M. S. MDLADLANA

Minister of Labour

SCHEDULE

THE MOTOR INDUSTRY BARGAINING COUNCIL—MIBCO**COLLECTIVE ADMINISTRATIVE AGREEMENT**

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

Retail Motor Industry Organisation—RMI

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

National Union of Metalworkers of South Africa,**Motor Industry Employees' Union of South Africa**

and the

Motor Industry Staff Association

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

being the parties to the Motor Industry Bargaining Council—MIBCO.

CLAUSE 1: SCOPE OF APPLICATION

- (1) The terms of this Agreement shall be observed in the Motor Industry—
 - (a) throughout the Republic of South Africa as it existed prior to the coming into operation of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), excluding that portion of the Magisterial District of Somerset West occupied by the Cape Explosives Works (Ltd);
 - (b) by the employers and the employees in the Motor Industry who are members of the employers' organisation and the trade unions, respectively.
- (2) Notwithstanding the provisions of subclause (1), the provisions of this Agreement shall apply to—
 - (a) apprentices only in so far as such provisions are not inconsistent with the provisions of or any conditions fixed under the Manpower Training Act, 1981, and learners in terms of Chapter IV of the Skills Development Act, Act No. 97 of 1998; and
 - (b) trainees undergoing training under the Manpower Training Act, 1981, only in so far as such provisions are not inconsistent with the provisions of or any conditions fixed under that Act.
- (3) The provisions of clause 1 (1) (b), 2, 5 (1) (d), 7, 12 and 13 of this Agreement shall not apply to employers and employees who are not members of the employers' organisation and trade unions who entered into this Agreement.

CLAUSE 2: PERIOD OF OPERATION OF AGREEMENT

This Agreement shall come into operation on such date as may be fixed by the Minister of Labour in terms of section 32 of the Act, and shall remain in operation for the period ending 31 March 2006.

CLAUSE 3: DEFINITIONS

Any expressions used in this Agreement that 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 except where the context otherwise indicates, words importing the masculine gender shall also include the feminine; further, unless inconsistent with the context—

- (1) **"Act"** means the Labour Relations Act, 1995 (Act No. 66 of 1995);
- (2) **"apprentice"** means an employee serving under a written contract of apprenticeship registered or deemed to have been registered under the Manpower Training Act, 1981, and includes a minor employed on probation in terms of that Act as well as a learner in terms of Chapter IV of the Skills Development Act, Act No. 97 of 1998;
- (3) **"Area A (EC)"** means the Magisterial District of East London, and the municipal areas of Despatch, Port Elizabeth and Uitenhage;
- (4) **"Area B (EC)"** means the Magisterial Districts of Aberdeen, Adelaide, Albany, Albert, Alexandria, Aliwal North, Barkly East, Bathurst, Bedford, Calitdorp, Cathcart, Colesberg, Cradock, Elliot, Fort Beaufort, George, Graaff-Reinet, Hankey, Hanover, Hofmeyr, Humansdorp, Indwe, Jansenville, Joubertina, King William's Town, Kirkwood, Knysna, Komga, Lady Grey, Maclear, Middelburg (Eastern Cape), Molteno, Mossel Bay, Murraysburg, Noupourt, Oudtshoorn, Pearston, Port Elizabeth (excluding the municipal area of Port Elizabeth), Queenstown, Somerset East, Sterkstroom, Steynsburg, Steytlerville, Stockenström, Stutterheim, Tarka, Uitenhage (excluding the municipal area of Uitenhage), Uniondale, Venterstad, Willowmore and Wodehouse;
- (5) **"Area A (KZNL)"** means the Magisterial Districts of Chatsworth, Durban, Pietermaritzburg and Pinetown and the municipal areas of Ladysmith, Newcastle and Umhlanga Rocks;
- (6) **"Area B (KZNL)"** means the districts and areas in the Province of KwaZulu-Natal not referred to in Area A (KZNL), and the Magisterial District of Mount Currie;
- (7) **"Area A (FS and NC)"** means the Magisterial District of Bloemfontein and the municipal areas of Kimberley, Sasolburg and Welkom;
- (8) **"Area B (FS and NC)"** means the Province of the Free State, excluding those districts and areas referred to in Area A (FS and NC), and the Magisterial Districts of Barkly West, Britstown, De Aar, Gordonia, Hartswater, Hay, Herbert, Hopetown, Kenhardt, Kimberley, Kuruman, Mafikeng, Phillipstown, Postmasburg, Prieska, Upington, Vryburg and Warrenton [but excluding those municipal areas included in Area A (FS and NC)];
- (9) **"Area A (Highveld)"** means the Magisterial Districts of Oberholzer, Randfontein and Westonaria, and the municipal areas of Alberton, Bedfordview, Benoni, Boksburg, Brakpan, Edenvale, Elsburg, Germiston, Heidelberg (Gauteng), Johannesburg, Kempton Park, Klerksdorp, Krugersdorp, Meyerton, Midrand, Nigel, Potchefstroom, Randburg, Roodepoort–Maraisburg, Sandton, Springs, Vanderbijlpark and Vereeniging;

- (10) **"Area B (Highveld)"** means the Magisterial Districts of Amersfoort, Amsterdam, Balfour, Bethal, Bloemhof, Breyten, Christiana, Coligny, Davel, Delareyville, Delmas, Ermelo, Fochville, Heidelberg, Lichtenburg, Nigel, Orkney, Ottosdal, Piet Retief, Pongola, Schweizer-Reneke, Standerton, Stilfontein, Volksrust, Wolmaransstad, Wakkerstroom, and the municipal areas of Amalia, Armadene, Bank, Biesiesvlei, Bosfontein; Chrissiesmeer, Dasville, De Deur, Devon, Ebner-on-Vaal, Eendracht, Eikenhof, Eloff, Evander, Evaton, Glaudina, Glenharvie, Gollel, Grasmere, Greylingstad, Grootvlei, Hartebeesfontein, Hekpoort, Holmdene, Kinross, Klipdrif, Kliprivier, Klipvalley, Leeudoringstad, Leslie, Lothair, Magaliesberg, Makokskraal, Makwassie, Migdol, Moolman, Moosrivier, Morgenzon, Muldersrif, Paardekraal, Perdekop, Platrand, Redan, Residensia, Rykaartspas, Sannieshof, Sibasa, Sundra, Sebokeng, Trichardt, Val, Van Wyksrus, Venterspos, Vermaas, Welbekend, Welverdiend, Walkerville, Zuurbekom, but excluding those districts and areas referred to in Area A (Highveld);
- (11) **"Area A (Northern Region)"** means the municipal areas of Akasia, Middelburg (Mpumalanga), Nelspruit, Pietersburg, Potgietersrus, Pretoria, Rustenburg, Centurion and Witbank;
- (12) **"Area B (Northern Region)"** means the Magisterial Districts of Barberton, Belfast, Brits, Bronkhorstspuit, Carolina, Cullinan, Eerstehoek/Badplaas, Ellisras, Groblersdal, Koster, Letaba (including Tzaneen), Lydenburg, Marico (including Zeerust), Messina, Moutse, Phalaborwa, Pilgrims Rest (including Graskop and Sabie), Sibasa, Soshanguve, Soutpansberg (including Louis Trichardt), Swartruggens, Thabazimbi, Warmbaths, Waterval-Boven, White River and Waterberg (including Nylstroom), but excluding those districts and areas referred to in Area A (Northern Region) and the areas as they existed prior to the proclamation of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993);
- (13) **"Area A (WP)"** means the Magisterial Districts of Bellville, Goodwood, Kuils River, Simon's Town, The Cape and Wynberg, and the municipal areas of Paarl, Somerset West, Stellenbosch and Strand;
- (14) **"Area B (WP)"** means the Magisterial Districts of Beaufort West, Bredasdorp, Caledon, Calvinia, Carnarvon, Ceres, Clanwilliam, Fraserburg, Heidelberg (Western Cape), Hermanus, Hopefield, Ladismith, Laingsburg, Malmesbury, Montagu, Moorreesburg, Namaqualand, Paarl, Piketberg, Prince Alfred, Riversdale, Robertson, Somerset West, Stellenbosch, Strand, Sutherland, Swellendam, Tulbagh, Vanrhynsdorp, Victoria West, Vredenburg, Vredendal, Wellington, Williston and Worcester, but excluding those municipal areas referred to in Area A (WP);
- (15) **"B/A journeyman"** means an employee over the age of 22 who is able to prove not less than three years' experience in a trade designated for the Motor Industry or, with the approval of the Regional Council concerned, experience in some other trade, and who, under the supervision of a journeyman, performs work in the designated trade in which he has had the experience or, with the approval of the Regional Council concerned, in some other trade related to the activities covered by the definition of 'Motor Industry' in this Agreement, or an employee who is able to prove to the satisfaction of the Regional Council concerned not less than three-and-a-half years' experience as a repair shop assistant, body shop assistant, motor cycle mechanic's assistant, auto electrician's assistant or diesel pump room assistant with any employer in the 'Motor Industry', as defined;
- [Note: Regarding the proof required of three-and-a-half years' experience, a certificate of service shall be issued by the employer certifying that the employee concerned had served either as a repair shop assistant, body shop assistant, motor cycle mechanic's assistant, auto electrician's assistant or diesel pump room assistant, which certificate in turn shall be verified by the Regional Council concerned, and the employee shall submit proof of having attended the relevant course at a duly registered group training centre.]
- (16) **"Council"** means the Motor Industry Bargaining Council—MIBCO, registered in terms of section 29 of the Act;
- (17) **"establishment"** means any premises or part thereof in or on which the Industry, or any part thereof, as defined in this Agreement, is carried on;
- (18) **"Exemptions Board"** means the Board established by the Council in terms of section 32 of the Act, to consider appeals from non-parties against a refusal of a non-party's application for exemption from the provisions of a published collective agreement and the withdrawal of such an exemption by the Council;
- (19) **"journeyman"** means a person who performs journeyman's work and who—
- has served an apprenticeship in a designated trade in accordance with the requirements of the Manpower Training Act, 1981, or in accordance with a written contract approved by any Regional Council; or
 - is in possession of a Grade A membership card issued by the Motor Industry Employees' Union of South Africa or the National Union of Metalworkers of South Africa; or
 - is in possession of a certificate issued to him in terms of the Manpower Training Act, 1981; or
 - is in possession of an identity card issued by the Regional Council;
- (20) **"Main Agreement"** means the Agreement in which wages and other conditions of service are prescribed for employees in the Motor Industry, as published in terms of section 32 of the Act;

(21) **"Motor Industry"** or **"Industry"**, without in any way limiting the ordinary meaning of the expression and subject to the provisions of any statutory demarcation determination, means the industry concerned with—

- (a) assembling, erecting, testing, remanufacturing, repairing, adjusting, overhauling, wiring, re-wiring, upholstering, spraying, painting and/or reconditioning carried on in connection with—
 - (i) chassis and/or bodies of motor vehicles;
 - (ii) internal combustion engines and transmission components of motor vehicles;
 - (iii) the electrical equipment connected with motor vehicles, including radios;
- (b) automotive engineering;
- (c) repairing, vulcanising and/or retreading tyres;
- (d) repairing, servicing and/or reconditioning batteries for motor vehicles;
- (e) the business of parking and/or recovery and/or storing of motor vehicles;
- (f) the business conducted by filling and/or service stations;
- (g) the business carried on mainly or exclusively for the sale of motor vehicles or motor vehicle parts and/or spares and/or accessories (whether new or used) pertaining thereto, whether or not such sale is conducted from premises that are attached to a portion of an establishment wherein is conducted the assembly of or repairs to motor vehicles;
- (h) the business of motor graveyards;
 - (i) the business of manufacturing establishments wherein are fabricated motor vehicle parts and/or spares and/or accessories and/or components thereof;
 - (j) vehicle body building;
- (k) the sale of tractors, agricultural and irrigational equipment (not connected with the manufacture thereof) in the Republic of South Africa, but excluding the Magisterial District of Kimberley, in respect of the sale of—
 - (i) agricultural and irrigational equipment; and
 - (ii) tractors, except when undertaken by establishments substantially engaged in the sale and/or repair of other motor vehicles,

for the purposes of this definition—

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

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

"vehicle body building" means any or all of the following activities carried on in a vehicle body building establishment, but does not include vehicle body building done by assembly establishments incidental to the assembling of motor vehicles:

- (a) The construction, repair or renovation of cabs and/or bodies and/or any superstructure for any type of vehicle;
- (b) the manufacture or repair of component parts for cabs and/or bodies and/or any superstructure and the assembling, adjusting and installation of parts in cabs, bodies or on the superstructure of vehicles;
- (c) fixing cabs and/or bodies and/or any superstructure to the chassis of any type of vehicle;
- (d) coating and/or decorating cabs and/or bodies and/or any superstructure with any preservative or decorative substance;
- (e) equipping, furnishing and finishing off the interior of cabs and/or bodies and/or superstructure;
- (f) building of trailers, but excluding the manufacture of wheels or axles therefor;
- (g) all operations incidental to or consequent upon the activities referred to in subparagraphs (a) to (f) above; and

for the purposes of this definition, "vehicle" does not include an aircraft; and

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

- (a) The manufacture of motor vehicle parts and/or accessories and/or spares and/or components in establishments laid out for and normally producing metal and/or plastic goods of a different character on a substantial scale, or the sale of motor spare parts and accessories by assembly establishments from such establishments;

- (b) the assembling, erecting, testing, repairing, adjusting, overhauling, wiring, spraying, painting and/or reconditioning of agricultural tractors, except where carried on in establishments rendering similar service in respect of motor cars, motor lorries or motor trucks;
 - (c) the manufacturing and/or maintenance and/or repair of—
 - (i) civil and mechanical engineering equipment, and/or parts thereof, whether mounted on wheels or not;
 - (ii) agricultural equipment or parts thereof; or
 - (iii) equipment designed for use in factories and/or workshops:
Provided that for the purposes of (i), (ii) and (iii) above, "equipment" shall not be taken to mean motor cars, motor lorries and/or motor trucks;
 - (iv) motor vehicle or other vehicle bodies and/or superstructures and/or parts or components thereof made of steel plate of 3,175 mm thickness or thicker when carried on in establishments laid out for and normally engaged in the manufacture and/or maintenance and/or repair of civil and/or mechanical engineering equipment on a substantial scale;
 - (d) assembly establishments, i.e. establishments in which motor vehicles are assembled from new components on an assembly line, which includes the manufacture and/or fabricating of any motor vehicle parts or components when carried on in such establishments, but does not include vehicle body building, except in so far as it is carried on incidental to the assembly of motor vehicles, other than caravans and trailers;
- (22) "Region EC" means those areas defined as "Area A (EC)" and "Area B (EC)";
- (23) "Region KZNL" means the Province of Natal as it existed prior to the promulgation of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993) and the Magisterial District of Mount Currie;
- (24) "Region FS & NC" means those areas defined as "Area A (FS & NC)" and "Area B (FS & NC)";
- (25) "Region Highveld" means those areas defined as "Area A (Highveld)" and "Area B (Highveld)";
- (26) "Region Northern" means those areas defined as "Area A (Northern Region)" and "Area B (Northern Region)";
- (27) "Region WP" means those areas defined as "Area A (WP)" and "Area B (WP)";
- (28) "Regional Council" means a committee appointed as such by the Council in terms of its constitution;
- (29) "week" means—
- (a) for the purposes of clause 11 (Returns to the Council) of this Agreement, a period of seven consecutive days commencing at midnight on a Sunday;
 - (b) for the purposes of the remaining clauses of this Agreement, a period of seven consecutive days.

CLAUSE 4: EXEMPTIONS

- (1) Exemption from any of the provisions of any of the Council's Agreements may be granted by the Council or Regional Councils, to any party on application.
- (2) Application for exemption shall be made to the secretary of the Regional Council within whose area the applicant operates or is employed.
- (3) The Regional Council or the Council, as the case may be, shall fix the conditions subject to which such exemptions shall be valid, and may, if it deem fit, after one week's notice has been given in writing to the person(s) concerned, withdraw any exemption licence.
- (4) The secretary of the Regional Council or the Secretary of the Council, as the case may be, shall issue to every person granted exemption, a licence signed by him setting out—
- (a) the name of this Agreement from which exemption is granted;
 - (b) the provisions of this Agreement from which exemption is granted;
 - (c) the conditions subject to which such exemption is granted; and
 - (e) the period during which the exemption shall be valid.
- (5) The following exemptions procedure shall apply in respect of establishments registered under Chapters II or III or this Agreement:
- (a) An employer that applies for an exemption in order to pay a lesser wage increase or to be exempted from paying on actuals shall complete the wage exemption application form available on request from the local Regional Councils.
 - (b) The employer shall consult its employees on the employer's intention to apply for an exemption and the application for exemption shall contain details and proof of the consultation process.

- (c) The employer, in the application shall furnish all relevant financial information supporting the substantiation for the exemption applied for.
 - (d) The employer shall lodge the application for exemption with the local Regional Council and the employer shall specify that it is a Chapter II or Chapter III application for an exemption and the employer shall specify the exact nature of the exemption applied for as prescribed by paragraph (5) (a) of this clause.
 - (e) The Regional Council shall make a decision on the application or an exemption within 30 days from the date upon which the application was lodged with the said Regional Council.
 - (f) If the application of a non-party establishment for the exemption is rejected, the employer may lodge an appeal with the Exemptions Board and if the application of a party establishment is rejected the employer may appeal to the National Council.
- (6) The Secretary of the Regional Council or the Secretary of the Council, as the case may be, shall—
- (a) number consecutively all licences issued;
 - (b) retain a copy of each licence issued; and
 - (c) where exemption is granted to an employee, forward a copy of the licence to the employer concerned.
- (7) The Secretary of the Regional Council or the General Secretary, as the case may be, shall issue to every person granted a licence, a letter of authority signed by him setting out, read with the changes required by the context, the information referred to in subclauses (5) and (6) above.

CLAUSE 5: DEDUCTIONS FROM EARNINGS

- (1) Unless otherwise provided for in this Agreement or the Main Agreement, no deduction or set-off of any description shall be made from the earnings that an employee would normally be entitled to receive, other than the following:
- (a) Deduction made with the written consent of the employee and of the Regional Council or the Council for—
 - (i) holiday, insurance, provident and/or pension funds or medical aid schemes where these are not administered by a Regional Council or the Council, and where an employee through negotiations between himself and his employer agrees on the amount to be paid by the employee to accept board and/or lodging from his employer;
 - (ii) tea, sports or similar clubs;
 - (iii) purchases by employees from their employers:

Provided that in the case of Division B employees who are in receipt of remuneration, excluding commission on sales, in excess of R84 968 per annum in Area A and R72 176 in other areas, the deductions referred to in subparagraphs (i) and (ii), together with other similar deductions, may be made only subject to the written consent of the employee: Provided further that such deductions are not in conflict with any contract on commission work that exists between the employer and the employee.
 - (b) Contributions to Council funds in terms of clause 11 of this Agreement and contributions to any sick benefit, provident and/or pension funds administered by any regional council or the Council.
 - (c) Any amount paid under any law, ordinance, or legal process by an employer on behalf of an employee.
 - (d) Subscriptions to the Motor Industry Employees' Union of South Africa, the Motor Industry Staff Association and the National Union of Metalworkers of South Africa, in terms of clause 12 of this Agreement, or to such other registered trade union as may be approved by a Regional Council or the Council.
 - (e) Amounts an employer, in terms of regulations published under the Manpower Training Act, 1981, is entitled to recover from an apprentice who has deserted or has been expelled from an apprenticeship training hostel.
 - (f) Any amount an employer deducts to pay to a financial institution approved by the Council in respect of a housing loan for which any of the Pension or Provident Funds administered by the Council provide collateral security.

An employer who has made a deduction in terms of this subclause shall pay the deducted amount to the Secretary of the Regional Council concerned by not later than the 10th day of the month following that during which the deduction was made, or in the case of subclause (f), to the appropriate person or authority under any law, ordinance or legal process or to the approved financial institution referred to in this sub-clause: Provided that the maximum deduction may not exceed 30% of an employee's weekly/monthly earnings, including deductions for the payment of housing loans, and provided further that statutory deductions shall not form part of this limitation.

- (2) Should any amount due in terms of this clause not be received by the Council by the 15th day of month following the month in respect of which it is payable, the employer shall pay interest on such amount or on such lesser amount as remains unpaid, calculated at the rate prescribed in terms of clause 22 of this Agreement, from such 15th day until the day upon which payment in cash is actually received by the Regional Council concerned: Provided that a Regional Council shall be entitled in its absolute discretion to waive the payment of such interest or part thereof.

CLAUSE 6: ADMINISTRATION OF AGREEMENT

(1) The Motor Industry Bargaining Council - MIBCO, registered in terms of section 29 of the Act, hereinafter referred to as the "Council", shall be the body responsible for the administration, interpretation, implementation and enforcement of any provision of this Agreement, the Main Agreement or any other collective agreements entered into by the parties to the Council.

(2) The Council may, in terms of its constitution, appoint Regional Councils for such Regions as it may establish from time to time.

CLAUSE 7: AGENTS

The Council or any Regional Council may appoint one or more specified persons as agents to assist in giving effect to the terms of this Agreement, and it shall be the duty of every employer and every employee to permit such persons to enter such establishment or institute and complete such enquiries and examine such documents, books, wage sheets, time sheets and pay tickets, question such individuals and perform all such acts as may be necessary for the purpose of ascertaining whether the provisions of this Agreement are being observed.

CLAUSE 8: REGISTRATION OF EMPLOYERS

(1) Every employer, unless he has already done so, shall in respect of each place at which he carries on business, complete a statement in the form of Annexure A to this Agreement and lodge such statement with the secretary of the Regional Council within whose area of jurisdiction such place of business is situated, not later than 30 days after the date—

- (a) on which this Agreement comes into operation, in the case of any place(s) of business which he is operating at that date; or
- (b) of the commencement of business at any such place.

(2) Every employer shall, within one month after such change, notify the secretary of the Regional Council concerned of any change in—

- (a) the ownership; and/or
- (b) the name; and/or
- (c) the address; and/or
- (d) the partners, directors, members or managers,

of the business.

CLAUSE 9: EXHIBITION OF AGREEMENT AND POSTING OF NOTICES

Every employer upon whom this Agreement is binding shall—

- (a) keep a copy of the Collective Agreement available in the workplace at all times;
- (b) make that copy available for inspection by any employee; and
- (c) give a copy of the collective agreement—
 - (i) to an employee who has paid the prescribed fee; and
 - (ii) free of charge, on request, to an employee who is a trade union representative;
- (d) affix and keep affixed in some conspicuous and readily accessible place upon his premises the undermentioned documents, which shall be printed in legible characters in two official languages of the Republic of South Africa, namely—
 - (i) a notice in the form specified by the Council, specifying the day of the week or month, as the case may be, and the time and place at which wages will ordinarily be paid each week or month, as the case may be;
 - (ii) a notice containing the official address of the Provincial Director, of the Department of Labour and of the secretary of the Regional Council within whose area of jurisdiction the employer is carrying on his business;
 - (iii) a notice containing the starting and finishing times of each shift, in the case of filling and/or service stations where forecourt attendants are employed on a shift system.

CLAUSE 10: RECORDS TO BE KEPT BY EMPLOYERS**(1) Hours and wages record**

- (a) Every employer shall, in respect of and at each place where he conducts business, keep available for inspection at all times and in the form prescribed by the regulations under the Act, an up-to-date record of the earnings paid to and the time worked by each of his employees. All entries shall be in ink.
- (b) Every employer shall retain the completed record referred to in paragraph (a) of this subclause for a period of three years subsequent to the date of any entry therein.

- (c) Every employer shall upon the commencement of employment of every employee enter into the record referred to in paragraph (a) of this subclause—
- (i) the name of the employee;
 - (ii) the class of work he performs; and
 - (iii) the date of commencement of his employment.

(2) **Attendance record:** Every employer shall have available an attendance register in the form of BCEA 3 to the regulations promulgated in terms of the Basic Conditions of Employment Act, 1997, in which any employee who wishes to do so may, and every employee whose employer requires him to do so shall, record his correct times of arrival at and departure from work.

CLAUSE 11: RETURNS TO THE COUNCIL

(1) Every employer shall on each pay-day deduct from the earnings of each of his employees, other than apprentices, the levies specified in subclause (5) of this clause.

(2) Every employer shall contribute and add to the levies deducted in terms of subclause (1) levies of an equal amount.

(3) The total amount of levies deducted from the earnings of employees and contributed by employers in terms of subclauses (1) and (2), respectively, shall be paid each month to the secretary of the Regional Council within whose area of jurisdiction of the employer's establishment is situated and shall be accompanied by a written statement containing the following details:

- (a) The total number of watchmen and Grade 1 and Grade 2 employees employed and the total amount of levies remitted in respect of such employees; and
- (b) in respect of all other employees, including apprentices—
 - (i) the family name, initials, sex, date of birth, occupation and identity number of non-trade union journeymen;
 - (ii) the amount of the levy remitted in respect of each employee;
 - (iii) the date on which service began on the date on which service ended, in the case of employees whose employment began or ended since the details were last submitted.

[Note: Journeymen in non-party establishments shall be given numbered identity cards by the Council, and the numbers of trade union members shall be inserted on monthly returns in terms of clause 12 (1) (a) of this Agreement.]

(4) Every employer shall pay the total amount of the levies payable and render the statement of details required each month in terms of subclause (3) of this clause to the secretary of the Regional Council concerned by not later than the 10th day of the month immediately following the month to which the levies and details relate.

[Note:

- (a) The present postal addresses of the secretaries of the various Regional Councils are as follows:

Region EC: P.O. Box 3164, North End, Port Elizabeth, 6056;

Region KZNL: P.O. Box 17263, Congella, 4013;

Region FS & NC: P.O. Box 910, Bloemfontein, 9300;

Region Highveld: P.O. Box 2578, Randburg, 2125;

Region Northern: P.O. Box 2578, Randburg, 2125;

Region WP: P.O. Box 17, Bellville, 7535.

- (b) Forms prepared specifically for the inclusion of the details required by this clause are obtainable on application from the secretary of the Regional Council concerned.]

(5) The contributions in terms of subclause (1) shall be at the rate of R1,60 per week per employee (irrespective of weekly wage) in all Regions: Provided that—

- (i) where an employee receives wages for less than 23 hours, or has worked for less than 23 hours in a particular week, no contributions shall be payable by or in respect of him for that week;
- (ii) before an employee proceeds on annual leave, contributions due in respect of the period during which he is to be on leave shall be deducted.

(6) Should any amount due in terms of this clause not be received by the Council by the 15th day of the month following the month in respect of which it is payable, the employer shall pay interest on such amount or on such lesser amount as remains unpaid, calculated at the rate prescribed in clause 22 of this Agreement from such 15th day until the day upon which payment in cash is actually received by the Regional Council concerned: Provided that a Regional Council shall be entitled in its absolute discretion to waive the payment of such interest or part thereof.

CLAUSE 12: SUBSCRIPTIONS TO THE TRADE UNIONS AND EMPLOYERS' ORGANISATION

(1) (a) Every employer who is a member of the employers' organisation shall deduct from the wages of each of his employees concerned who are members of any of the trade unions that are party to the Council, the amount of the subscription payable by such employees to the trade unions and shall pay to the secretary of the Regional Council having jurisdiction in the area concerned, the amount so deducted and render a written statement containing the following details in respect of each employee from whose wages subscriptions have been deducted:

- (i) The family name and initials;
- (ii) the trade union membership number;
- (iii) the amount deducted; and
- (iv) the period in respect of which subscriptions were deducted.

(b) An employer who has been notified in writing by a Regional Council that one or more of his employees is in arrears with subscriptions or entrance fees shall deduct such arrears up to an amount not exceeding R4 per employee per week from remuneration due to such employee, and shall forthwith remit any amounts so deducted to the Regional Council concerned.

(c) Every employer shall pay the subscriptions so deducted and render the statement required in terms to paragraph (a) to the secretary of the Regional Council concerned by not later than the 10th day of the month immediately following the month to which the subscriptions relate.

[Note: Forms prepared specifically for the inclusion of the details required by this subclause are obtainable on application from the secretary of the Regional Council concerned.]

(2) Every employer who is a member of the employers' organisation shall, not later than the 10th day of each month, forward to the secretary of the Regional Council concerned one twelfth of his annual subscriptions payable to the said employers' organisation, should such subscriptions not already have been paid direct to the organisation.

(3) Subscriptions received by the Council in accordance with the provisions of subclauses (1) and (2) on behalf of the employers' organisation and the trade unions shall be paid to that organisation or the trade union in question by not later than the 10th day of the month following that during which the subscriptions were received.

(4) Should any amount due in terms of this clause not be received by the Council by the 15th day of the month following the month in respect of which it is payable, the employer shall pay interest on such amount or on such lesser amount as remains unpaid, calculated at the rate prescribed in clause 22 of this Agreement from such 15th day until the day upon which payment in cash is actually received by the Regional Council concerned: Provided that a Regional Council shall be entitled in its absolute discretion to waive the payment of such interest or part thereof.

CLAUSE 13: EMPLOYEES' REPRESENTATIVES ON THE COUNCIL

Employees' representatives on the Council or any Regional Council shall be given every reasonable facility by their employers to attend to their duties in connection with meetings of such Councils.

CLAUSE 14: PROHIBITION OF CESSION OF BENEFITS

No benefit arising out of an employee's contract of service, whether due by his employer or the Council, shall be capable of being ceded, and any such cession by an employee is prohibited. No purported cession of such benefits shall be binding on or be recognised by the Council or his employer unless such cession is in respect of moneys advanced by the Contingency Reserve provided for by clause 16 of this Agreement.

CLAUSE 15: PRESUMPTIONS

An employee shall be deemed to be working in the employ of an employer, in addition to any period during which he is actually so working, during—

- (a) any period during which, in accordance with the requirements of his employer, he is present at or in any establishment;
- (b) any other period during which he is present at or in any such establishment;
- (c) any period during which he is in charge of any vehicle used in the Industry, whether or not it is being driven;
- (d) the whole of any interval in his work if he is not free to leave the premises of his employer for the whole of such interval; or
- (e) the whole of any interval in his work if the duration of such interval is not shown in the records required to be kept in terms of clause 10 of this Agreement:

Provided that, if it is proved that any such employee was not working and was free to leave the premises during any part of any period referred to in paragraphs (b), (c) (d) or (e), the presumption established by this clause shall not apply in respect of such employee with reference to that part of such period.

CLAUSE 16: CONTINGENCY RESERVE

(1) Leave pay, holiday bonus and additional holiday pay in the possession of Regional Councils and unclaimed by the beneficiaries after the expiration of three years from the date of receipt shall be paid—

- (a) to Contingency Reserve A, where the beneficiary is a Grade 7 or Grade 8 employee, a trainee in terms of the Manpower Training Act, 1981, an apprentice or a person permitted to perform aspects of journeyman's work, in terms of a valid exemption license issued by the Council; and
- (b) to Contingency Reserve B, where the beneficiary is an employee falling under other categories than those referred to in (a) above, and is eligible for membership of the Motor Industry Staff Association;
- (c) to Contingency Reserve C, where the beneficiary is an employee, not falling under those categories referred to in paragraphs (a) and (b) above, and is eligible for membership of the National Union of Metalworkers of South Africa.

(2) Contingency Reserves A, B and C (hereinafter referred to as the "Reserves") shall be utilised for the benefit of employees in the Industry as the Council may determine: Provided that—

- (i) any such leave pay or additional holiday pay or part thereof as the Council may regard as being in excess of what is required to finance the Reserves shall be forfeited to the Council;
- (ii) any leave pay or additional holiday pay that has been forfeited to the Council or paid into the Reserves in terms of this subclause, and that is subsequently claimed by the beneficiary, may be paid out at the discretion of the Council;
- (iii) subject to proviso (ii), any money forfeited to the Council shall, in the case of a beneficiary who was a member of either the Motor Industry Employees' Union of South Africa or the National Union of Metalworkers of South Africa, be credited separately in the books of account of the Council in accounts to be styled, respectively, the "A Contingency Account" and the "C Contingency Account".

(3) The Reserves shall be administered by Regional Councils in accordance with principles formulated by the Council and a copy of the memorandum containing such principles and particulars of any amendments shall be lodged with the Director-General of Labour.

(4) In the event of the dissolution of the Council, any moneys standing to the credit of the Reserves shall at the time of such dissolution be deemed to constitute part of the Council's cash assets and shall be dealt with accordingly: Provided that in the case of Contingency Reserve B such moneys shall be paid into any Benefit Fund established on behalf of the Motor Industry Staff Association in terms of clause 4 of its constitution and approved by the Registrar of Labour Relations.

(5) Subject to the provisions of subclause (4), in the event of the expiration of this Agreement by effluxion of time or cessation for any other cause, the Reserves shall continue to be administered in terms of subclause (3): Provided that if another agreement for the Industry is not negotiated within a period of two years after such expiration or cessation, any moneys standing to the credit of the Reserves shall be forfeited to the Council.

(6) The cost of administering the Reserves referred to in this clause and the special Leave Pay Account referred to elsewhere in this Agreement shall be borne by Regional Councils, which may at their discretion invest any of the funds on hand with an approved bank and/or building society, and any interest accruing from such investment shall be retained by such Regional Councils to defray costs of administration of the Reserves and of the said Special Leave Pay Account.

**CLAUSE 17: WAGES FOR TRAINEES AND/OR APPRENTICES TRAINING AT
THE TRAINING CENTRE FOR ARTISANS, BELLVILLE**

Any motor and diesel trainee and/or apprentice receiving training at the Training Centre for Artisans at Bellville who, for purposes of obtaining the required workshop experience, is placed with an employer in the Motor Industry for a period of six months during the third year of training shall, during such period of six months, be paid a wage of not less than that prescribed for a third-year apprentice in the Motor Industry.

CLAUSE 18: DISHONOURED CHEQUES

Whenever an employer pays any sum of money, which is due to the Council in terms of this Agreement, in any manner other than in cash and such payment is not honoured for any reason whatever, then and in such event a penalty shall be payable by the employer to the Council in its sole discretion, which penalty shall be equal to the interest rate as determined by the Council from time to time of the amount of the purported payment. Any penalty due to the Council in terms of this clause shall be payable on demand.

CLAUSE 19: MIEU DEVELOPMENT FUND

(1) Every employer shall deduct from the earnings of every member of the Motor Industry Employees' Union of South Africa employed by him, the sum of 15c per week in respect of MIEU Development Fund levies.

(2) Amounts so deducted from the earnings shall be paid by the employer to the secretary of the Regional Council concerned by not later than the 10th day of the month following that during which the amounts were deducted.

(3) MIEU Development Fund levies received by Regional Councils in accordance with the provisions of this clause shall be paid to the National Office of the Motor Industry Employees' Union of South Africa by not later than the 10th day of the month following that during which they are received.

(4) The funds remitted to the MIEU Development Fund shall be administered by a committee appointed by the National Executive Council of the Motor Industry Employees' Union of South Africa in terms of their duly registered constitution.

CLAUSE 20: REVISION OF WAGES

The wages prescribed for the Motor Industry shall be negotiable by the employers' organisation and the trade unions on a yearly basis.

CLAUSE 21: LEGAL COSTS

(1) For the purposes of this clause "money" means any amount of money and includes money that an employer has to deduct or has deducted from moneys due to an employee by virtue of any obligation, but not paid over to the Council.

(2) When the Council instructs an attorney to collect money from an employer, the employer shall be liable to the Council for all the legal costs incurred by the Council in the recovery of the amount due including costs on the attorney and own client scale irrespective of whether the Council instituted civil proceedings or arbitration proceedings or whether those proceedings have commenced or not.

(3) When the Council instructs a natural or legal person other than an attorney to collect money, then the employer shall be liable for the costs and fees determined by the Council to be the costs and fees payable by the Council to such person in the recovery of the amount due by the employer.

CLAUSE 22: INTEREST CLAUSE

Whenever any amount payable to the Council in terms of this Agreement is not paid on the due date, interest shall be payable on such amount or on any such lesser amount as may remain unpaid, calculated from the due date of payment at the interest rate of 1,5 per cent to two per cent or part thereof.

CLAUSE 23: EXEMPTIONS BOARD

(1) In accordance with section 32(3)(e) of the Act the Council hereby establishes an independent body, to be known as the Exemptions Board, to consider appeals from non-parties against a refusal of a non-party's application for exemption from the provisions of a published collective agreement and against the withdrawal of such an exemption by the Council.

(2) Any non-party employer may lodge an appeal with the Council against the Council's refusal of an application for an exemption from the provisions of a published collective agreement and the withdrawal of such an exemption by the Council, in which event the following procedure shall apply:

- (a) An appeal shall be in writing and shall be addressed to the Regional Secretary concerned for consideration by the Exemptions Board appointed by the Council.
- (b) All appeals shall be considered by the Council or Regional Council with due regard to the criteria contained in the Collective Agreement when considering applications for exemptions by non-parties.
- (c) All appeals shall be fully substantiated by the applicant and shall include the following details:
 - (i) The period for which the exemption is required;
 - (ii) the Agreement and clause or subclauses of the Agreement from which exemption is required;
 - (iii) proof that the exemption applied or has been discussed by the employer, his employees and their respective representatives, and the responses resulting from such consultation, either in support of or against the application;

(3) The Exemptions Board may, having regard to the individual merits of each appeal, grant or refuse the appeal if such granting or refusal—

- (a) does not undermine the Agreement;
- (b) is fair to the employer or his employees and other employers and employees in the Industry.

(4) The Exemptions Board shall deal with all appeals within 30 days of the date on which the appeal was submitted: Provided that the Board may defer a decision to a following meeting if additional substantiation or information is considered necessary to make a decision on the appeal.

(5) Once the Exemptions Board has granted an exemption, it shall issue an exemption certificate and advise the applicant(s) accordingly within 14 days of the date of such decision.

(6) When the Exemptions Board dismisses or dismisses part of an appeal for exemption it shall advise the applicant(s) within 14 days of the date of such decision.

- (7) **Exemption criteria:** The Exemptions Board shall consider all appeals for exemption with reference to the following:
- (a) The written substantiation submitted by the applicant;
 - (b) the extent of consultation with and the petition for or against the granting of the exemption provided by employers or employees who will be affected by the exemption, if granted;
 - (c) the scope of the exemption required;
 - (d) the infringement of basic conditions of employment rights;
 - (e) the fact that no competitive advantage is created by the exemption;
 - (f) the exemption from any employee benefit fund or training provision should be considered in relation to the alternative comparable bona fide benefit or provision, including the cost to the employee, transferability, administration management and cost, growth and stability;
 - (g) the extent to which the proposed exemption undermines collective bargaining and labour peace in the Motor Industry;
 - (h) any existing special economic or other circumstances which warrant the granting of the exemption;
 - (i) cognisance of the recommendations contained in the Report of the Presidential Commission to Investigate Labour Market Policy; and
 - (j) any recommendation from the Council.

CLAUSE 24: RESOLUTION OF DISPUTES

(1) For the purposes of this Agreement, "dispute" means any dispute about the application, interpretation or enforcement of this Agreement, or any other collective agreements entered into by the parties to the Council.

(2) Any such dispute shall be referred to the Council in the form specified by the Council. This provision shall not apply when the Council makes use of the procedure set out in subclause (4).

(3) If the Council fails to resolve the dispute through conciliation and the dispute remains unresolved, such dispute shall be referred for arbitration to the MIBCO-Dispute Resolution Centre in terms of section 52 of the Act. The arbitrator shall have the power to decide upon the procedure to be followed at the arbitration hearing in terms of section 138 of the Act, and be entitled to make an award in respect of the parties' arbitration costs in terms of section 138 (10) of the Act.

(4) The provisions of this clause stand in addition to any other legal remedy through which the Council may enforce a collective agreement.

(5) The arbitrator's decision shall be final and binding, subject to the parties' right of review to the Labour Court.

(6) Any other dispute shall have the same meaning as defined in the Act and shall be dealt with in terms of section 51 of the Act.

Signed at Randburg, on behalf of the parties, this 20th day of March 2001.

R. BASTICK

President of the Council

H. MORAPEDI

Member of the Council

B. G. DU PREEZ

General Secretary of the Council

THE MOTOR INDUSTRY BARGAINING COUNCIL—MIBCO

ANNEXURE A

[Prescribed by clause 8 (1) of this Agreement]

The Regional Secretary

Date:

The Motor Industry Bargaining Council—MIBCO

Regional Council

P.O. Box

.....

Dear Sir,

REGISTRATION AS EMPLOYER IN THE MOTOR INDUSTRY

In accordance with clause 8 (1) I hereby furnish the following particulars in connection with this business:

- 1. Name under which business is carried on
- 2. Address at which business is carried on
- 3. Telephone No.
Fax No.
E-Mail Address:
- 4. Address of head office (where applicable)
- 5. Nature of business
- 6. Date on which trading commenced
- 7. Name and addresses of:
 - Proprietor
 - or Partners
 - or Directors
 - or Members
 - Manager and/or Secretary

(Where any of these persons are actively engaged in the business, the nature of their duties must be shown in parentheses alongside their respective names)

- 8. Particulars of employees:
 - Number of journeymen
 - Number of apprentices
 - Number of clerical and sales persons
 - Number of general workers
 - Number of other employees
- 9. Name of employers' organisation of which I am a member

Yours faithfully

.....

No. R. 557

22 Junie 2001

WET OP ARBEIDSVERHOUDINGE, 1995

MOTORNYWERHEID—MIBCO: UITBREIDING VAN NUWE ADMINISTRATIEWE KOLLEKTIEWE OOREENKOMS NA NIE-PARTYE

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, verklaar hierby, kragtens artikel 32 (2) van die Wet op Arbeidsverhoudinge, 1995, dat die Kollektiewe Ooreenkoms wat in die Bylae hiervan verskyn en wat in die Motornywerheidsbedingingsraad—MIBCO aangegaan is en kragtens artikel 31 van die Wet op Arbeidsverhoudinge, 1995, bindend is op die partye wat die Ooreenkoms aangegaan het, bindend is vir die ander werkgewers en werknemers in daardie nywerheid met ingang van 2 Julie 2001, en vir die tydperk wat op 31 Maart 2006 eindig.

M. M. S. MDLADLANA
Minister van Arbeid

BYLAE**DIE MOTORNYWERHEID-BEDINGINGSRAAD—MIBCO
KOLLEKTIEWE ADMINISTRATIEWE OOREENKOMS**

ooreenkomstig die Wet op Arbeidsverhoudinge, 1995, gesluit deur en aangegaan tussen die

Retail Motor Industry Organisation—RMI

(hierna die "werkgewers" of die "werkgewersorganisasie" genoem), aan die een kant, en die

National Union of Metalworkers of South Africa,**Motor Industry Employees' Union of South Africa**

en die

Motor Industry Staff Association

(hierna die "werknemers" of die "vakbonde" genoem), aan die ander kant,

wat die partye is by die Motornywerheidsbedingingsraad—MIBCO.

KLOUSULE 1—TOEPASSINGSBESTEK

- (1) Hierdie Ooreenkoms moet in die Motornywerheid nagekom word—
 - (a) oral in die Republiek van Suid-Afrika soos dit bestaan het onmiddellik voor die datum van inwerkingtreding van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993), uitgesluit daardie gedeelte van die Landdrostdistrik Somerset-Wes wat geokkupeer word deur Cape Explosives Works (Ltd);
 - (b) deur die werkgewers en die werknemers in die Motornywerheid wat lede is van onderskeidelik die werkgewersorganisasie en die vakbonde.
- (2) Ondanks subklousule (1) is hierdie Ooreenkoms van toepassing op—
 - (a) vakleerlinge slegs vir sover dit nie onbestaanbaar is met die Wet op Mannekrageopleiding, 1981, of voorwaardes wat daarkragtens gestel is nie, en leerlinge kragtens Hoofstuk IV van die Skills Development Act (Wet op die Ontwikkeling van Vaardighede), Wet No. 97 van 1998; en
 - (b) kwekelinge wat opleiding ingevolge die Wet op Mannekrageopleiding, 1981, ondergaan, slegs vir sover dit nie onbestaanbaar is met daardie Wet op voorwaardes wat daarkragtens gestel is nie.
- (3) Klousules 1 (1) (b), 2, 5 (1) (d), 7, 12, 13 van hierdie Ooreenkoms is nie van toepassing nie op werkgewers en werknemers wat nie lede is van die werkgewersorganisasie en vakbonde wat hierdie Ooreenkoms aangegaan het.

KLOUSULE 2: GELDIGHEIDSDUUR VAN OOREENKOMS

Hierdie Ooreenkoms tree in werking op die datum wat die Minister van Arbeid ingevolge artikel 32 van die Wet vasstel en bly van krag vir die tydperk wat op 31 Maart 2006 eindig.

KLOUSULE 3: WOORDOMSKRYWING

Alle uitdrukkings wat in hierdie Ooreenkoms gebruik en in die Wet op Arbeidsverhoudinge, 1995, omskryf word, het dieselfde betekenis as in daardie Wet, waar daar van 'n wet melding gemaak word, omvat dit alle wysigings van sodanige wet, en tensy uit die konteks anders blyk, omvat woorde wat die manlike geslag aandui ook vroue; voorts, tensy onbestaanbaar met die samehang, beteken—

- (1) "**Wet**" die Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 van 1995);
- (2) "**vakleerling**" 'n werknemer wat diens doen ingevolge 'n skriftelike leerlingkontrak wat geregistreer is of geag word geregistreer te wees ooreenkomstig die Wet op Mannekrageopleiding, 1981, en ook 'n minderjarige wat ooreenkomstig daardie Wet op proef aangestel is asook 'n leerling kragtens Hoofstuk IV van die Skills Development Act (Wet op die Ontwikkeling van Vaardighede), 1998, (Wet No. 97 van 1998);

- (3) **"Gebied A (OK)"** die landdrostdistrik Oos-Londen en die munisipale gebiede Despatch, Port Elizabeth en Uitenhage;
- (4) **"Gebied B (OK)"** die landdrostdistrikte Aberdeen, Adelaide, Albany, Albert, Alexandria, Aliwal-Noord, Barkly-Oos, Bathurst, Bedford, Calittdorp, Cathcart, Colesberg, Cradock, Elliot, Fort Beaufort, George, Graaff-Reinet, Hankey, Hanover, Hofmeyr, Humansdorp, Indwe, Jansenville, Joubertina, King William's Town, Kirkwood, Knysna, Komga, Lady Grey, Maclear, Middelburg (Oos-Kaap), Molteno, Mosselbaai, Murraysburg, Noupourt, Oudtshoorn, Pearston, Port Elizabeth (uitgesonderd die munisipale gebied Port Elizabeth), Queenstown, Somerset-Oos, Sterkstroom, Steynsburg, Steytlerville, Stockenström, Stutterheim, Tarka, Uitenhage (uitgesonderd die munisipale gebied Uitenhage), Uniondale, Venterstad, Willowmore en Wodehouse;
- (5) **"Gebied A (KZNL)"** die landdrostdistrikte Chatsworth, Durban, Pietermaritzburg en Pinetown en die munisipale gebiede Ladysmith, Newcastle en Umhlanga Rocks;
- (6) **"Gebied B (KZNL)"** die distrikte en gebiede in die provinsie KwaZulu-Natal wat nie in Gebied A (KZNL) vermeld word nie, en die landdrostdistrik Mount Currie;
- (7) **"Gebied A (VS en NK)"** die landdrostdistrik Bloemfontein en die munisipale gebiede Kimberley, Sasolburg en Welkom;
- (8) **"Gebied B (VS and NK)"** die provinsie Vrystaat, uitgesluit die distrikte en gebiede bedoel in Gebied A (VS en NK), en die landdrostdistrikte Barkly-Wes, Britstown, De Aar, Gordonia, Hartswater, Hay, Herbert, Hopetown, Kenhardt, Kimberley, Kuruman, Mafikeng, Phillipstown, Postmasburg, Prieska, Upington, Vryburg en Warrenton [maar uitgesonderd die munisipale gebiede wat in Gebied A (Streek VS en NK) ingesluit is];
- (9) **"Gebied A (Hoëveld)"** die landdrostdistrikte Oberholzer, Randfontein en Westonaria, en die munisipale gebiede Alberton, Bedfordview, Benoni, Boksburg, Brakpan, Edenvale, Elsburg, Germiston, Heidelberg (Gauteng), Johannesburg, Kempton Park, Klerksdorp, Krugersdorp, Meyerton, Midrand, Nigel, Potchefstroom, Randburg, Roodepoort-Maraisburg, Sandton, Springs, Vanderbijlpark en Vereeniging;
- (10) **"Gebied B (Hoëveld)"** die landdrostdistrikte Amersfoort, Amsterdam, Balfour, Bethal, Bloemhof, Breyten, Christiana, Coligny, Davel, Delareyville, Delmas, Ermelo, Fochville, Heidelberg, Lichtenburg, Nigel, Orkney, Ottosdal, Piet Retief, Pongola, Schweizer-Reneke, Standerton, Stilfontein, Volksrust, Wolmaransstad, Wakkerstroom, en die munisipale gebiede Amalia, Armadene, Bank, Biesiesvlei, Bosfontein; Chrissiesmeer, Dasville, De Deur, Devon, Ebner-on-Vaal, Eendracht, Eikenhof, Eloff, Evander, Evaton, Glaudina, Glenharvie, Gollel, Grasmere, Greylingstad, Grootvlei, Hartebeesfontein, Hekpoort, Holmdene, Kinross, Klipdrif, Kliprivier, Klipvalley, Leeudoringstad, Leslie, Lothair, Magaliesberg, Makokskraal, Makwassie, Migdol, Moolman, Moosrivier, Morgenzon, Muldersrif, Paardekraal, Perdekop, Platrand, Redan, Residensia, Rykaartspas, Sannieshof, Sibasa, Sundra, Sebokeng, Trichardt, Val, Van Wyksrus, Venterspos, Vermaas, Welbekend, Welverdiend, Walkerville, Zuurbekom, maar uitgesonderd die distrikte en gebiede in Gebied A (Hoëveld) bedoel;
- (11) **"Gebied A (Noordelike Streek)"** die landdrostdistrikte Akasia, Middelburg (Mpumalanga), Nelspruit, Pietersburg, Potgietersrus, Pretoria, Rustenburg, Centurion en Witbank;
- (12) **"Gebied B (Noordelike Streek)"** die landdrostdistrikte Barberton, Belfast, Brits, Bronkhorstspuit, Carolina, Cullinan, Eerstehoek/Badplaas, Ellisras, Groblersdal, Koster, Letaba (uitgesonderd Tzaneen), Lydenburg, Marico (insluitende Zeerust), Messina, Moutse, Phalaborwa, Pelgrimsrus (insluitende Graskop en Sabie), Sibasa, Soshanguve, Soutpansberg (insluitende Louis Trichardt), Swartruggens, Thabazimbi, Wambad, Waterval-Boven, Witrivier en Waterberg (insluitende Nylstroom), maar uitgesonderd die distrikte en gebiede in Gebied A (Noordelike Streek) bedoel en die gebiede soos dit bestaan het onmiddellik voor die datum van inwerkingtreding van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993);
- (13) **"Gebied A (WP)"** die landdrostdistrikte Bellville, Goodwood, Kuilsrivier, Simonstad, Die Kaap en Wynberg, en die munisipale gebiede Paarl, Somerset-Wes, Stellenbosch en Strand;
- (14) **"Gebied B (WP)"** die landdrostdistrikte Beaufort-Wes, Bredasdorp, Caledon, Calvinia, Carnarvon, Ceres, Clanwilliam, Fraserburg, Heidelberg (W-Kaap), Hermanus, Hopefield, Ladysmith, Laingsburg, Malmesbury, Montagu, Moorreesburg, Namakwaland, Paarl, Piketberg, Prince Alfred, Riversdal, Robertson, Somerset-Wes, Stellenbosch, Strand, Sutherland, Swellendam, Tulbagh, Vanrhynsdorp, Victoria-Wes, Vredenburg, Vredendal, Wellington, Williston en Worcester, maar uitgesonderd die munisipale gebiede in Gebied A (WP) bedoel;
- (15) **"B/A-vakman"** 'n werknemer ouer as 22 jaar wat kan bewys dat hy minstens drie jaar ondervinding het in 'n ambag wat vir die Motornywerheid aangewys is of, met die goedkeuring van die betrokke Streeksraad, ondervinding in 'n ander ambag, en wat, onder toesig van 'n vakman, werk verrig in die aangewese ambag waarin hy ondervinding opgedoen het of, met die goedkeuring van die betrokke Streeksraad, in 'n ander ambag wat verband hou met die werksaamhede wat deur die omskrywing van "Motornywerheid" in hierdie Ooreenkoms gedek word, of 'n werknemer wat tot bevrediging van die betrokke Streeksraad kan bewys dat hy minstens drie-en-'n-half jaar ondervinding het as 'n herstelwinkelassistent, bakwinkelassistent, motorfietswerktuigkundige se assistent, motor-elektrisiën se assistent of dieselpompkamer-assistent by 'n werkgewer in die 'Motornywerheid' soos omskryf;

[**Opmerking:** Aangaande die bewys van drie-en-'n-half jaar ondervinding wat vereis word, moet die werkgewer 'n dienssertifikaat uitreik waarin gesertifiseer word dat die betrokke werknemer diens gedoen het as 'n herstelwinkelassistent, bakwinkelassistent, motorfietswerktuigkundige se assistent, motor-elektrisiën se assistent of dieselpompkamer-assistent, en dié sertifikaat moet op sy beurt deur die betrokke Streeksraad bekragtig word. Die werknemer moet ook bewys lewer dat hy die toepaslike kursus by 'n behoorlik geregistreerde groeopleidingsentrum bygewoon het.]

- (16) **"Raad"** die Motornywerheid-bedingingsraad—MIBCO, wat ooreenkomstig artikel 29 van die Wet geregistreer is;
- (17) **"bedryfsinrigting"** 'n perseel of gedeelte daarvan waarin of waarop die Nywerheid, of 'n gedeelte daarvan, soos in hierdie Ooreenkoms omskryf beoefen word;
- (18) **"Onafhanklike Vrstellingsraad"** die Raad wat ingevolge artikel 32 van die Wet deur die Raad ingestel is om appèlle van nie-partye, teen die weiering van 'n nie-party-onderneming se aansoek om vrystelling van enige van die bepalings van 'n gepubliseerde kollektiewe Ooreenkoms deur die Raad, vir watter rede ook al, te oorweeg;
- (19) **"vakman"** 'n persoon wat vakmanwerk verrig en wat—
- (a) 'n leertyd as vakleerling in 'n aangewese ambag uitgedien het, ooreenkomstig die vereistes van die Wet op Mannekragopleiding, 1981, of ooreenkomstig 'n skriftelike kontrak wat deur 'n Streeksraad goedgekeur is; of
 - (b) in besit is van 'n graad A-lidmaatskapkaart wat deur die Motor Industry Employees' Union of South Africa of die National Union of Metalworkers of South Africa uitgereik is; of
 - (c) in besit is van 'n sertifikaat wat ooreenkomstig die Wet op Mannekragopleiding, 1981, aan hom uitgereik is; of
 - (d) in besit is van 'n identiteitskaart wat deur die Streeksraad uitgereik is;
- (20) **"Hofooreenkoms"** die Ooreenkoms waarin lone en ander diensvoorwaardes vir werknemers in die Motornywerheid voorgeskryf word, soos gepubliseer ingevolge artikel 32 van die Wet;
- (21) **"Motornywerheid"** of **"Nywerheid"**, sonder om die gewone betekenis van die uitdrukking enigerwyse te beperk en behoudens die bepalings van enige statutêre afbakeningsvasstelling gemaak, die nywerheid wat die volgende omvat:
- (a) Monteer-, oprigtings-, toets-, hervervaardigings-, herstel-, regstel-, opknappings-, bedradings-, herbedradings-, stoffeer-, spuitverf-, verf- en/of vernuwingswerk uitgevoer in verband met—
 - (i) die onderstelle en/of bakke van motorvoertuie;
 - (ii) binnebrandenjins en/of transmissiekomponente van motorvoertuie;
 - (iii) die elektriese uitrusting in verband met motorvoertuie, met inbegrip van radio's;
 - (b) motoringenieurswerk;
 - (c) die herstel, vulkaniseer en/of versool van buitebande;
 - (d) die herstel, versiening en/of vernuwing van batterye van motorvoertuie;
 - (e) die onderneming in verband met die parkering en/of opsporing en/of bewaring van motorvoertuie;
 - (f) die onderneming wat gedryf word deur vul- en/of diensstasies;
 - (g) die onderneming wat hoofsaaklik of uitsluitlik gedryf word in verband met die verkoop van motorvoertuie of motorvoertuigonderdele en/of reserwedele en/of -bybehore (hetsy nuut of gebruik) in verband daarmee, afgesien daarvan of sodanige verkoop geskied vanuit 'n perseel wat verbonde is aan 'n gedeelte van 'n bedryfsinrigting waarin die montering van en/of herstelwerk aan motorvoertuie uitgevoer word of nie;
 - (h) die onderneming in verband met motorsloopwerke;
 - (i) die onderneming van vervaardigingsbedryfsinrigtings waarin motorvoertuigonderdele en/of -reserwedele en/of bybehore en/of komponente daarvan vervaardig word;
 - (j) voertuigbakbouwerk;
 - (k) die verkoop van trekkers, landbou- en besproeiingsuitrusting (nie in verband met die vervaardiging daarvan nie) in die Republiek van Suid-Afrika, maar uitgesonderd die landdrosdistrik Kimberley, ten opsigte van die verkoop van—
 - (i) landbou- en besproeiingsuitrusting; en
 - (ii) trekkers, behalwe wanneer onderneem deur bedryfsinrigtings wat in aansienlike mate betrokke is by die verkoop en/of herstel van ander motorvoertuie.

Vir die toepassing van hierdie omskrywing beteken—

"motoringenieurswerk" die vernuwing van binnebrandenjins of onderdele daarvan vir gebruik in motorvoertuie in bedryfsinrigtings wat hoofsaaklik of uitsluitlik hierdie soort werk verrig, afgesien daarvan of sodanige bedryfsinrigting betrokke is by die demontering en herstel van motorvoertuie of nie; en

"motorvoertuig" 'n wielvoertuig wat met meganiese krag (uitgesonderd stoom) of elektrisiteit aangedryf word en wat bedoel is vir karweierk en/of vir die vervoer van persone en/of goedere en/of vragte, en ook sleepwaens en woonwaens, maar nie ook uitrusting wat ontwerp is om op vaste spore te loop, sleepwaens wat bedoel is vir die vervoer van vragte van 27 273 kg of meer, of vliegtuie nie; en

"voertuigbakbouwerk" enigeen van of al ondergenoemde werksaamhede wat uitgevoer word in 'n voertuigbakbou-bedryfsinrigting, maar nie ook voertuigbakbouwerk wat in verband met die montering van motorvoertuie deur monteringsinrigtings verrig word nie:

- (a) Die bou, herstel of opknapping van kajuite en/of bakke en/of die bobou vir alle soorte voertuie;
- (b) die vervaardiging of herstel van onderdele vir kajuite en/of bakke en/of alle bobouwerk en montering, regstelling en installering van onderdele in kajuite, bakke of op die bobou van voertuie;
- (c) die aanbring van kajuite en/of bakke en/of alle bobouwerk aan die onderstel van alle soorte voertuie;
- (d) die bestryking en/of versiering van kajuite en/of bakke en/of alle bobou met 'n preserveermiddel of versiermiddel;
- (e) die uitrus, meubilering en afwerking van die binnekant van kajuite en/of bakke en/of die bobou;
- (f) die bou van sleepwaens, uitgesonderd die vervaardiging van wiele en asse daarvoor;
- (g) alle werksaamhede wat in verband staan met of voortvloei uit die werksaamhede in subparagrafe (i) tot (vi) hierbo bedoel; en

vir die toepassing van hierdie omskrywing omvat "voertuig" nie 'n vliegtuig nie en omvat "Motormywerheid", soos hierbo omskryf, nie die volgende nie:

- (a) Die vervaardiging van motorvoertuigonderdele en/of -bybehore en/of -reserwedele en/of -komponente in bedryfsinrigtings wat gewoonlik metaal- en/of plastiekgoedere van 'n ander aard op 'n aansienlike skaal vervaardig en daarvoor aangelê is, of die verkoop van motorreserwedele en -bybehore vanuit sodanige bedryfsinrigtings deur monteerinrigtings;
- (b) die montering, oprigting, toets, herstel, regstel, opknapping, bedrading, bespuiting, verf en/of vernuwing van landboutrekkers, behalwe waar dit uitgevoer word in bedryfsinrigtings wat gewoonlik 'n soortgelyke diens ten opsigte van motorkarre of vragmotors of motortrokke lewer;
- (c) die vervaardiging en/of onderhoud en/of herstel van—
 - (i) uitrusting vir siviele en werktuigkundige ingenieurswerk en/of onderdele daarvan, afgesien daarvan of dit op wiele gemonteer is of nie;
 - (ii) landbou-uitrusting of onderdele daarvan; of
 - (iii) uitrusting bedoel vir gebruik in fabriek en/of werkwinkels:
Met dien verstande dat, vir die toepassing van (i), (ii) en (iii), uitrusting nie geag word motorkarre, vragmotors en/of motortrokke te beteken nie;
 - (iv) motorvoertuig- of ander voertuigbakke en/of bobouwerk en/of onderdele of komponente daarvan gemaak van staalplate wat 3,175 mm dik of dikker is, wanneer uitgevoer in bedryfsinrigtings wat aangelê is vir en gewoonlik betrokke is by die vervaardiging en/of onderhoud en/of herstel van uitrusting vir siviele en/of werktuigkundige ingenieurswerk op aansienlike skaal;
- (d) monteerbedryfsinrigtings, wat beteken bedryfsinrigtings waarin motorvoertuie uit nuwe komponente op 'n monterband gemonteer word, en ook die vervaardiging en/of maak van motorvoertuigonderdele of -komponente wanneer uitgevoer in sodanige bedryfsinrigtings, maar omvat dit nie ook voertuigbouwerk nie, behalwe vir sover dit uitgevoer word in verband met die montering van motorvoertuie, uitgesonderd woonwaens en sleepwaens;

(22) "Streek OK" die gebiede omskryf as "Gebied A (OK)" en "Gebied B (OK)";

(23) "Streek KZNL" die provinsie Natal soos dit bestaan het onmiddellik voor die datum van inwerkingtreding van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993), en die Landdrosdistrik Mount Currie;

(24) "Streek VS & NK" die gebiede omskryf as "Gebied A (VS & NK)" en "Gebied B (VS & NK)";

(25) "Streek Hoëveld" die gebiede omskryf as "Gebied A (Hoëveld)" en "Gebied B (Hoëveld)";

(26) "Streek Noordelike" die gebiede omskryf as "Gebied A (Noordelike Streek)" en "Gebied B (Noordelike Streek)";

(27) "Streek WP" die gebiede omskryf as "Gebied A (WP)" en "Gebied B (WP)";

(28) "Streksraad" 'n komitee wat die Raad ooreenkomstig sy konstitusie as sodanig aangestel het;

(29) "week"—

(a) vir die toepassing van klousule 11 (Opgawes aan die Raad) van hierdie Ooreenkoms, 'n tydperk van sewe agtereenvolgende dae, beginnende om middernag op 'n Sondag;

(b) vir die toepassing van die res van die klousules van die Ooreenkoms, 'n tydperk van sewe agtereenvolgende dae.

KLOUSULE 4: VRYSTELLINGS

(1) Die Streeksrade of die Raad kan vrystelling van enigeen van die bepalings van hierdie Ooreenkoms verleen aan enige party op aansoek.

(2) Aansoek om vrystelling moet gedoen word by die sekretaris van die Streeksraad in wie se gebied die aansoeker sake doen of werksaam is.

(3) De Streeksraad of die Raad, na gelang van die geval, moet die voorwaardes stel waarop sodanige vrystelling van krag is en kan, na goeëdunke na een week skriftelike kennisgewing aan die betrokke persoon/persone, 'n vrystellingsertifikaat intrek.

(4) Die sekretaris van die Streeksraad of die Sekretaris van die Raad, na gelang van die geval, moet aan elkeen aan wie vrystelling verleen is, 'n sertifikaat uitreik wat deur hom onderteken is en wat die volgende meld—

- (a) Die naam van die betrokke persoon;
- (b) die bepalings van hierdie Ooreenkoms waarvan vrystelling verleen word;
- (c) die voorwaardes waarop sodanige vrystelling verleen word; en
- (d) die tydperk waarin die vrystelling van krag is.

(5) Die volgende vrystellingsprosedure is van toepassing met betrekking tot bedryfsinrigtings wat ingevolge Hoofstuk II of III van hierdie Ooreenkoms geregistreer is:

- (a) 'n Werkgewer wat aansoek doen om 'n vrystelling van die betaling van die voorgeskrewe loonverhoging of van die betaling van werklike lone, moet die loonvrystellingsaansoekvorm invul wat beskikbaar is op aanvraag van die plaaslike Streeksrade.
- (b) Die werkgewer moet met sy werknemers raadpleeg oor sy voorneme om aansoek te doen om 'n vrystelling en die aansoek om vrystelling moet besonderhede en bewyse bevat van die raadplegingsprosedure.
- (c) Die werkgewer moet in sy aansoek alle tersaaklike finansiële inligting ter staving van die vrystelling waarom aansoek gedoen is, verskaf.
- (d) Die werkgewer moet die aansoek om vrystelling indien by die plaaslike Streeksraad en die werkgewer moet spesifiseer dat dit 'n Hoofstuk II- of III-aansoek om vrystelling is en die werkgewer moet die presiese aard van die vrystelling waarom aansoek gedoen word, spesifiseer soos voorgeskryf in subklousule (5) (a) van hierdie klousule.
- (e) Die Streeksraad moet binne 30 dae vanaf die datum waarop die aansoek om vrystelling by die streeksraad ingedien is, 'n besluit oor die aansoek neem.
- (f) Indien die aansoek van 'n nie-party-bedryfsinrigting om vrystelling van die hand gewys is, kan die werkgewer 'n appèl indien by die Vrystellingsraad en indien die aansoek van 'n party-bedryfsinrigting van die hand gewys is, kan die werkgewer appelleer na die Nasionale Raad.

(6) Die Sekretaris van die Streeksraad of die Sekretaris van die Raad, na gelang van die geval, moet—

- (a) alle sertifikate wat uitgereik word, agtereenvolgens nommer;
- (b) 'n kopie van elke sertifikaat wat uitgereik word, bewaar; en
- (c) waar vrystelling aan 'n werknemer verleen word, 'n kopie van die sertifikaat aan die betrokke werkgewer stuur.

(7) Die Sekretaris van die Streeksraad of die Hoofsekreteraris van die Raad, na gelang van die geval, moet aan elke persoon aan wie goedkeuring verleen is, 'n magtigingsbrief uitreik onderteken deur hom, waarin 'n uiteensetting gegee word van die inligting, gelees met die veranderings soos vereis deur die konteks, bedoel in subklousule (5) en (6) hierbo.

KLOUSULE 5: AFTREKKING VAN VERDIENSTE

(1) Behoudens andersluidende bepalings in hierdie Ooreenkoms, mag geen bedrae hoegenaamd, uitgesonderd die volgende, by wyse van skuldvergelyking of andersins, afgetrek word van die verdienstes waarop 'n werknemer gewoonweg geregtig is nie:

(a) Met die skriftelike toestemming van die werknemer en van die Streeksraad of die Raad, bedrae vir—

- (i) 'n vakansie-, versekerings-, voorsorg- en/of pensioenfonds of mediese hulpskema, waar sodanige fondse nie deur 'n Streeksraad of deur die Raad geadministreer word nie, en waar 'n werknemer deur onderhandelinge tussen homself en sy werkgewer ooreenkom oor die bedrag wat deur die werknemer betaal moet word om kos en/of inwoning van sy werkgewer te aanvaar;
- (ii) tee-, sport- of dergelike klubs;
- (iii) goedere wat die werknemer van sy werkgewer gekoop het:

Met dien verstande dat in die geval van Afdeling B-werknemers wat besoldiging, uitgesonderd kommissie op verkope, van meer as R84 968 per jaar in Gebiede A en R72 176 per jaar in ander gebiede ontvang, die aftrekkings opgesom in subparagrafe (i), (ii), tesame met ander soortgelyke aftrekkings, slegs gemaak kan word onderworpe aan die skriftelike goedkeuring van die werknemer. Met dien verstande verder dat sodanige aftrekkings nie strydig is met enige kontrak oor kommissiewerk wat tussen die werkgewer en werknemer bestaan nie.

- (b) Bydraes tot die fondse van die Raad ingevolge klousule 11 van hierdie Ooreenkoms en bydraes tot 'n siekte-bystands-, voorsorg- en/of pensioenfondse wat deur 'n Streeksraad of die Raad geadminestrer word.
- (c) Alle bedrae wat 'n werkgewer regtens of ingevolge 'n ordonnansie of geregtelike proses ten behoeve van 'n werknemer moet betaal.
- (d) Ledegelde aan die Motor Industry Employees' Union of South Africa, die Motor Industry Staff Association en die National Union of Metalworkers of South Africa, ingevolge klousule 12 van hierdie Ooreenkoms, of aan ander geregistreerde vakbonde wat deur 'n Streeksraad of die Raad goedgekeur is;
- (e) Bedrae wat 'n werkgewer geregtig is om ooreenkomstig regulasies afgekondig kragtens die Wet op Mannekrageopleiding, 1981, te verhaal van 'n vakleerling wat gedros het of uit 'n opleidingshostel vir vakleerlinge gesit is.
- (f) Enige bedrag wat deur 'n werkgewer afgetrek word om oor te betaal aan 'n finansiële instelling wat deur die Raad goedgekeur is ten opsigte van 'n behuisingskema waarvoor voorsiening gemaak is as kollaterale sekuriteit deur die Pensioen- of Voorsorgfondse soos geadminestrer deur die Raad.

'n Werkgewer wat ingevolge hierdie subklousule 'n aftrekking gemaak het, moet die bedrag afgetrek voor of op die 10de dag van die maand wat volg op die maand waarin die aftrekking geskied het aan die Sekretaris van die betrokke Streeksraad stuur of in die geval van subklousule (f) oorbetaal aan die betrokke persoon of instansie ingevolge wetgewing, ordonnansie of wetlike proses of aan die goedgekeurde finansiële instelling soos bedoel in daardie subklousule: Met dien verstande dat die maksimum aftrekking nie meer as 30% van die werknemer se weeklikse/maandelikse verdienste oorskry nie, wat die aftrekking van die behuisingslening se paalement insluit asook dat die statutêre aftrekkings nie deel vorm van hierdie beperking nie.

(2) Indien 'n bedrag wat ooreenkomstig hierdie klousule verskuldig is, nie teen die 15de dag van die maand wat volg op die maand ten opsigte waarvan dit betaalbaar is, deur die Raad ontvang word nie, moet die werkgewer rente betaal op sodanige bedrag of op sodanige kleiner bedrag wat onbetaald by, teen die koers soos voorgeskryf kragtens klousule 22 van hierdie Ooreenkoms vanaf sodanige 15de dag tot die dag waarop betaling in kontant werklik deur die betrokke Streeksraad ontvang is: Met dien verstande dat 'n Streeksraad daartoe geregtig is om na goeëdunke betaling van sodanige rente of gedeelte daarvan kwyt te skeld.

KLOUSULE 6 - ADMINISTRASIE VAN OOREENKOMS

(1) Die Motomywerheid-bedingingsraad - MIBCO, geregistreer kragtens artikel 29 an die Wet op Arbeidsverhoudinge, 1995, hierna die Raad genoem, is die liggaam verantwoordelik vir die administrasie vertolking, implementering en afdwining van hierdie Ooreenkoms, die Hoofooreenkoms of enige ander kollektiewe Ooreenkomste aangegaan tussen die partye by die Raad.

(2) Die Raad kan, kragtens sy Konstitusie, Streeksrade aanstel vir die Streke wat hy van tyd tot tyd instel.

KLOUSULE 7 - AGENTE

Die Raad of 'n Streeksraad kan een of meer aangewese persone as agente aantel om te help om uitvoering te gee aan hierdie Ooreenkoms, en dit is die plig van elke werkgewer en elke werknemer om sodanige persone toe te laat om die bedryfsinrigting te betree, dié navrae te doen en te voltooi en sodanige dokumente, boeke, loonstate, tydstate en betaalkaarte te ondersoek en sodanige persone te ondervra en al sodanige stappe te doen wat nodig is om vas te stel of hierdie Ooreenkoms nagekom word.

KLOUSULE 8: REGISTRASIE VAN WERKGEWERS

(1) Elke werkgewer moet, tensy hy dit reeds gedoen het, ten opsigte van elke plek waar hy sake doen 'n verklaring in die vorm van Aanhangsel A van hierdie Ooreenkoms invul of opstel en sodanige verklaring by die sekretaris van die Streeksraad binne wie se regsgebied sodanige sakeonderneming geleë is, indien en wel nie later nie as 30 dae ná die datum—

- (a) waarop hierdie Ooreenkoms van krag word, in die geval van elke plek waar hy 'n sakeonderneming op daardie datum dryf; of
- (b) waarop daar met die sakeonderneming op sodanige plek begin is.

(2) Elke werkgewer moet die sekretaris van die betrokke Streeksraad binne een maand na sodanige verandering van alle veranderings in ondergenoemde in kennis stel—

- (a) die eienaars; en/of
- (b) die naam; en/of
- (c) die adres van die sakeonderneming; en/of
- (d) die vennote, direkteure, lede of bestuurders.

KLOUSULE 9: VERTONING VAN OOREENKOMS EN OPPLAK VAN KENNISGEWINGS

(1) Elke werkgewer vir wie hierdie Ooreenkoms bindend is, moet—

- (a) te alle tye 'n afskrif van die kollektiewe ooreenkoms in die werkplek beskikbaar hou;
- (b) daardie afskrif ter insae aan enige werknemer beskikbaar stel; en

- (c) 'n afskrif van die kollektiewe ooreenkoms—
 - (i) aan 'n werknemer gee wat die voorgeskrewe geld betaal het; en
 - (ii) op versoek, kosteloos gee aan 'n werknemer wat 'n vakbondvertegenwoordiger is;
- (d) ondergenoemde dokumente wat in leesbare letters en in twee amptelike tale van die Republiek van Suid-Afrika gedruk moet wees, op 'n opvallende plek wat gereadig toeganklik is, op sy perseel opplak en opgeplak hou:
 - (i) 'n kennisgewing in die vorm soos deur die Raad bepaal, waarin gemeld word die dag van die week of maand, na gelang van die geval, en die tyd waarop en plek waar lone gewoonlik elke week of elke maand, na gelang van die geval, betaal sal word;
 - (ii) 'n kennisgewing waarin die aptelike adres van die Provinsiale Direkteur, van die Departement van Arbeid en van die sekretaris van die Streeksraad binne wie se regsgebied die werkgewer sy sake doen, verstrekk word;
 - (iii) 'n kennisgewing wat die aanvangs- en uitskeityd van elke skof meld in die geval van vul- en/of diensstasies waar voorpleinwerkers volgens 'n skofstelsel werk.

KLOUSULE 10: REGISTERS WAT DEUR WERKGEWERS BYGEHOU MOET WORD

(1) **Uur- en loonregisters:**

- (a) Elke werkgewer moet ten opsigte van en by elke plek waar hy besigheid dryf, 'n bygehoue register van die verdienste wat betaal is aan en die tyd wat gewerk is deur elk van sy werknemers te alle tye ter insae hou in die vorm voorgeskryf by die regulasies kragtens die Wet. Alle inskrywings moet met ink gedoen word.
- (b) Elke werkgewer moet die ingevulde register, in paragraaf (a) van hierdie subklousule bedoek, hou vir 'n tydperk van drie jaar ná die datum van elke inskrywing daarin.
- (c) Elke werkgewer moet by die indiensneming van elke werknemer die volgende besonderhede inskryf in die register wat in paragraaf (a) van hierdie subklousule bedoel word—
 - (i) die naam van die werknemer;
 - (ii) die klas werk wat hy doen; en
 - (iii) die aanvangsdatum van sy indiensneming.

(2) **Bywoningsregister:** Elke werkgewer moet 'n bywoningsregister in die vorm van BCEA 3 van die regulasies afgekondig kragtens die Wet op Basiese Diensvoorwaardes, 1997, beskikbaar hou waarin elke werknemer die presiese tyd van sy aankoms by en vertrek van die werk kan aanteken, as hy wil, of moet aanteken as sy werkgewer dit van hom vereis.

KLOUSULE 11: OPGAWES AAN DIE RAAD

(1) Elke werkgewer moet op elke betaaldag die heffings wat in subklousule (5) van hierdie klousule gespesifiseer is, van die loon van elkeen van sy werknemers, uitgesonderd vakleerlinge, aftrek.

(2) Elke werkgewer moet 'n bedrag bydra gelyk aan die bedrag van die heffings wat ooreenkomstig subklousule (1) van hierdie klousule afgetrek is en dit voeg by die bedrag wat aldus afgetrek is.

(3) Die totale bedrag van die heffings wat van die lone van die werknemers afgetrek is en die bedrag wat deur die werkgewers bygedra is ooreenkomstig onderskeidelik subklousules (1) en (2) van hierdie klousule, moet elke maande betaal word aan die sekretaris van die Streeksraad binne wie se regsgebied die werkgewer se bedryfsinrigting geleë is, vergesel van 'n skriftelike verklaring wat die volgende besonderhede bevat:

- (a) Die totale aantal wagte en werknemers graad 1 en graad 2 in diens en die totale bedrag van die heffings wat ten opsigte van sodanige werknemers aangestuur word; en
- (b) ten opsigte van alle ander werknemers, insluitende vakleerlinge—
 - (i) die familienaam, voorletters, geslag, geboortedatum, beroep en identiteitsnommer van vakmanne wat nie lede van vakbonde is nie;
 - (ii) die bedrag van die heffing wat ten opsigte van elke werknemer aangestuur word;
 - (iii) datum van indiensneming of datum van diensbeëindiging in die geval van werknemers wat in diens geneem of ontslaan is sedert die besonderhede die vorige keer aangestuur is.

[Opmerking: Vakmanne in bedryfsinrigtings wat nie 'n party by die Ooreenkoms is nie moet deur die Raad voorsien word van genommerde identiteitskaarte en die vakbondnommers van vakbondlede moet ingevolge klousule 12 (1) (a) van hierdie Ooreenkoms op maandelikse opgawes ingevoeg word.]

(4) Elke werkgewer moet die totale bedrag van die betaalbare heffings en die staat van die besonderhede wat elke maand ooreenkomstig subklousule (3) van hierdie klousule vereis word voor of op die 10de dag van die maand wat onmiddellik volg op dié waarop heffings en besonderhede betrekking het, aan die sekretaris van die betrokke Streeksraad betaal.

[Opmerking:

(a) Die huidige posadresse van die sekretarisse van die verskillende Streeksrade is soos volg:

Streek OK: Posbus 3164, North End, Port Elizabeth, 6056;

Streek KZNL: Posbus 17263, Congella, 4013;

Streek VS & NK: Posbus 910, Bloemfontein, 9300;

Streek Hoëveld: Posbus 2578, Randburg, 2125;

Streek Noordelike: Posbus 2578, Randburg, 2125;

Streek WP: Posbus 12, Bellville, 7535.

(b) Vorms wat spesifiek opgestel is vir die insluiting van die besonderhede wat ooreenkomstig hierdie klousule vereis word, is op aansoek verkrygbaar van die sekretaris van die betrokke Streeksraad.]

(5) Die bydraes ingevolge subklousule (1) moet teen 'n skaal van R1,60 per week per werknemer (ongegag hul weekloon) in alle Streke ingevorder word: Met dien verstande dat—

- (i) waar 'n werknemer vir minder as 23 uur 'n loon ontvang, of minder as 23 uur in 'n bepaalde week gewerk het, geen bydraes deur of ten opsigte van hom vir daardie week betaalbaar is nie;
- (ii) voordat 'n werknemer met sy jaarlikse verlof gaan, die bydraes wat verskuldig is vir die tydperk wat hy met verlof sal wees, afgetrek moet word.

(6) Indien 'n bedrag wat ooreenkomstig hierdie klousule verskuldig is, nie teen die 15de dag van die maand wat volg op die maand ten opsigte waarvan dit betaalbaar is, deur die Raad ontvang word nie, moet die werkgewer rente betaal op sodanige bedrag of op sodanige kleiner bedrag wat nie betaal is nie, beteken teen die koers soos voorgeskryf by klousule 22 van hierdie Ooreenkoms vanaf sodanige 15de dag tot die dag waarop betaling in kontant werklik deur die betrokke Streeksraad ontvang word: Met dien verstande dat 'n Streeksraad daartoe geregtig is om na goeddunke betaling van sodanige rente of gedeelte daarvan kwyf te skeld.

KLOUSULE 12: LEDEGELD VIR DIE VAKBONDE EN WERKGEWERSORGANISASIE

(1) (a) Elke werkgewer wat lid is van die werkgewersorganisasie, moet van die loon van elkeen van sy betrokke werknemers wat lid is van enige van die vakbonde wat 'n party is by die Raad, die ledegeld aftrek wat deur sodanige werknemers aan die vakbonde betaalbaar is, en moet die bedrag aldus afgetrek stuur aan die sekretaris van die Streeksraad wat regsbevoegdheid in die betrokke gebied het, saam met 'n skriftelike verklaring wat die volgende besonderhede bevat van elke wemmer van wie se loon ledegeld afgetrek is:

- (i) Familiernaam en voorletters;
- (ii) vakbondlidmaatskapnommer;
- (iii) bedrag afgetrek; en
- (iv) tydperk ten opsigte waarvan ledegeld afgetrek is.

(b) 'n Werkgewer wat deur 'n Streeksraad skriftelik in kennis gestel is dat een of meer van sy werknemers agterstallig is met ledegeld of met toetredingsgeld, moet sodanige agterstallige bedrae teen hoogstens R4 per werknemer per week aftrek van die besoldiging wat aan sodanige werknemer verskuldig is en moet bedrae wat aldus afgetrek is onverwyld aan die betrokke Streeksraad stuur.

(c) Elke werkgewer moet die ledegeld aldus afgetrek saam met die verklaring wat ooreenkomstig paragraaf (a) vereis word, voor of op die 10de dag van die maand wat onmiddellik volg op die maand waarop die ledegeld betrekking het, aan die sekretaris van die betrokke Streeksraad stuur.

[Opmerking: Vorms wat spesifiek opgestel is vir die insluiting van die besonderhede wat ooreenkomstig hierdie subklousule vereis word, is op aansoek verkrygbaar van die sekretaris van die betrokke Streeksraad.]

(2) Elke werkgewer wat lid is van die werkgewersorganisasie moet, tensy hy sodanige ledegeld alreeds regstreeks aan genoemde organisasie betaal het, voor of op die 10de dag van elke maand een twaalfde van sy jaarlikse ledegeld wat aan genoemde organisasie betaalbaar is, aan die sekretaris van die betrokke Streeksraad stuur.

(3) Ledegeld wat die Raad ooreenkomstig subklousules (1) en (2) van hierdie klousule ten behoeve van die werkgewersorganisasie en die vakbonde ontvang, moet voor of op die 10de dag van die maand wat volg op dié waarin die ledegeld ontvang is, aan daardie organisasie of die betrokke vakbond betaal word.

(4) Indien die bedrag wat ooreenkomstig hierdie klousule verskuldig is, nie teen die 15de dag van die maand wat volg op die maand ten opsigte waarvan dit betaalbaar is, deur die Raad ontvang word nie, moet die werkgewer rente betaal op die bedrag of op sodanige kleiner bedrag wat nie betaal is nie, bereken teen die koers soos voorgeskryf kragtens klousule 22 van hierdie Ooreenkoms vanaf sodanige 15de dag tot die dag waarop betaling in kontant werklik deur die betrokke Streeksraad ontvang word: Met dien verstande dat 'n Streeksraad daartoe geregtig is om na goeddunke betaling van sodanige rente of gedeelte daarvan kwyf te skeld.

KLOUSULE 13: VERTEENWOORDIGERS VAN WERKNEMERS IN DIE RAAD

Werkgewers moet die verteenwoordigers van werknemers in die Raad of 'n Streeksraad alle redelike fasiliteite verleen om hul pligte in verband met die vergaderings van sodanige Raad na te kom.

KLOUSULE 14: VERBOD OP SESSIE VAN BYSTAND

Geen bystand wat uit 'n werknemer se dienskontrak voortvloei, hetsy deur sy werkgever of deur die Raad verskuldig, mag gesedeer word nie en alle sodanige sessies deur 'n werknemer is verbode. Geen beweerde sessie van sodanige bystand is vir die Raad of sy werkgever bindend of word deur die Raad of sy werkgever erken nie, tensy sodanige sessie ten opsigte is van geld wat voorgeskiet is uit die Gebeurlikheidsreserwe waarvoor in klousule 16 van hierdie Ooreenkoms voorsiening gemaak word.

KLOUSULE 15: VERMOEDE

Benewens 'n tydperk wat 'n werknemer werklik in diens van 'n werkgever werk, word hy geag aldus te werk—

- (a) gedurende 'n tydperk waarin hy, ooreenkomstig die vereistes van sy werkgever, by of in 'n bedryfsinrigting teenwoordig is;
- (b) gedurende 'n ander tydperk waarin hy by of in sodanige bedryfsinrigting teenwoordig is;
- (c) gedurende 'n tydperk waarin hy verantwoordelik is vir 'n voertuig wat in die Nywerheid gebruik word, afgesien daarvan of sodanige voertuig gedryf word of nie;
- (d) gedurende 'n hele pouse in sy werk as dit hom nie vrystaan om die perseel van sy werkgever vir die hele pouse te verlaat nie; of
- (e) gedurende 'n hele pouse in sy werk indien die duur van sodanige pouse nie gemeld word in die registers wat ingevolge klousule 10 van hierdie Ooreenkoms gehou moet word nie:

Met dien verstande dat indien daar bewys word dat sodanige werknemer gedurende 'n gedeelte van 'n tydperk in paragraaf (b), (c) (d) en (e) bedoel, nie gewerk het nie en dit hom vrygestaan het om die perseel te verlaat, die vermoede in hierdie klousule vervat nie in verband met daardie gedeelte van sodanige tydperk op sodanige werknemer van toepassing is nie.

KLOUSULE 16: GEBEURLIKHEIDSRERWE

(1) Verlofbesoldiging, vakansiebonus en addisionele vakansiebesoldiging wat in die besit van Streeksrade is en wat onopgeëis is deur die bevoordeeldes na verstryking van drie jaar vanaf die datum van ontvangs, moet betaal word—

- (a) aan Gebeurlikheidsreserwe A waar die bevoordeelde Graad 7-, Graad 8-werknemer, kwekeling ingevolge die Wet op Mannekrageopleiding, 1981, vakleerling of iemand is wat toegelaat is om aspekte van 'n vakman se werk te verrig ingevolge 'n geldige vrystellingssertifikaat wat deur die Raad uitgereik is; en
- (b) aan die Gebeurlikheidsreserwe B waar die bevoordeelde in 'n ander kategorie 'n werknemer is as die kategorieë in paragraaf (a) hierbo bedoel en wat kwalifiseer vir lidmaatskap van die Motor Industry Staff Association;
- (c) aan Gebeurlikheidsreserwe C waar die bevoordeelde in 'n ander kategorie 'n werknemer is as die kategorieë in paragraaf (a) en (b) hierbo bedoel en wat kwalifiseer vir lidmaatskap van die National Union of Metalworkers of South Africa.

(2) Gebeurlikheidsreserwes A, B en C (hierna die 'Reserwes' genoem) moet tot voordeel van werknemers in die Nywerheid benut word soos die Raad bepaal: Met dien verstande dat—

- (i) alle sodanige verlofbesoldiging of addisionele vakansiebesoldiging (of 'n gedeelte daarvan) wat die Raad beskou as meer as wat nodig is om die Reserwes te finansier aan die Raad verbeur moet word;
- (ii) verlofbesoldiging of addisionele vakansiebesoldiging wat aan die Raad verbeur is of ingevolge hierdie subklousule in die Reserwes gestort is en wat daarna deur die bevoordeelde opgeëis word, na goeddunke van die Raad uitbetaal kon word;
- (iii) behoudens paragraaf (ii) enige geld wat aan die Raad verbeur word in die geval van 'n bevoordeelde wat 'n lid was van óf die Motor Industry Employees' Union of South Africa óf die National Union of Metalworkers of South Africa in afsonderlike rekenings van die Raad gekrediteer moet word en as onderskeidelik Gebeurlikheidsreserwerekening A en Gebeurlikheidsreserwerekening bekend moet staan.

(3) Die Reserwes moet deur die Streeksrade geadmistreer word ooreenkomstig beginsels deur die Raad geformuleer, en 'n kopie van die memorandum wat sodanige beginsels bevat, asook besonderhede van alle wysigings, moet by die Direkteur-generaal van Arbeid ingedien word.

(4) Ingeval die Raad ontbind word, moet gelde wat ten tyde van sodanige ontbinding in die krediet van die Reserwes staan, geag word 'n gedeelte van die Raad se kontantbates te wees en moet daar dienooreenkomstig daarmee gehandel word: Met dien verstande dat in die geval van die Gebeurlikheidsreserwe B, sodanige gelde aan enige Voorsorgfonds, ingestel ten gunste van die Motor Industry Staff Association kragtens klousule 4 van sy konstitusie en goedgekeur deur die Registrateur van Arbeidsverhoudinge, oorbetaal moet word.

(5) Ingeval hierdie Ooreenkoms met verloop van tyd verstryk of om 'n ander rede gestaak word, moet die Reserwes behoudens subklousule (4) van hierdie klousule, steeds ooreenkomstig subklousule (3) van hierdie klousule geadminestrer word: Met dien verstande dat indien 'n ander ooreenkoms vir die Nywerheid nie binne 'n tydperk van twee jaar ná sodanige verstryking of staking aangegaan word nie, alle geld in die krediet van die Reserwes aan die Raad verbeur word.

(6) Die administrasiekoste van die Reserwes in hierdie klousules bedoel en die spesiale Verlofbesoldigingsrekening elders in hierdie Ooreenkoms bedoel, moet gedra word deur Streeksrade wat na goeddunke die fondse voorhande in 'n goedgekeurde bank en/of bouvereniging kan belê, en alle rente uit sodanige beleggings moet deur sodanige Streeksrade gehou word om die administrasiekoste van die Reserwes en van genoemde spesiale Rekening te bestry.

KLOUSULE 17—LONE VIR KWEKELINGE EN/OF VAKLEERLINGE WAT AAN DIE OPLEIDINGSENTRUM VIR AMBAGSMANNE, BELLVILLE, OPGELEI WORD

Elke motor- en dieselkwekling en/of -vakleerling wat aan die Opleidingsentrum vir Ambagsmanne in Bellville opgelei word en wat gedurende sy derde jaar opleiding vir 'n tydperk van ses maande by 'n werkgewer in die Motomywerheid geplaas word om die vereiste werkwinkelondervinding op te doen, moet gedurende dié tydperk van ses maande 'n loon betaal word wat minstens gelyk is aan dié wat vir 'n derdejaarkwekling in die Motomywerheid voorgeskryf word.

KLOUSULE 18: GEDISHONOREERDE TJEKS

Wanneer 'n werkgewer 'n bedrag geld wat kragtens hierdie Ooreenkoms aan die Raad verskuldig is, anders as in kontant betaal en sodanige betaling, om watter rede ook al, nie gehonoreer word nie, moet die werkgewer na goeddunke van die Raad 'n boete aan die Raad betaal gelyk aan die rentekoers soos van tyd tot tyd deur die Raad bepaal van die bedrag van die bedoelde betaling. Enige boete verskuldig aan die Raad ingevolge hierdie klousule is op aanvraag betaalbaar.

KLOUSULE 19: MIEU-ONTWIKKELINGSFONDS

(1) Elke werkgewer moet weekliks die bedrag van 15 sent ten opsigte van MIEU-ontwikkelingsfondsheffings aftrek van die verdienste van elke lid van die Motor Industry Employees' Union of South Africa.

(2) Bedrae aldus van verdienstes afgetrek, moet deur die werkgewer aan die sekretaris van die betrokke Streeksraad oorbetaal word voor of op die 10de dag van die maand wat volg op die maand ten opsigte waarvan dit afgetrek is.

(3) Heffings vir die MIEU-ontwikkelingsfonds wat deur Streeksrade ooreenkomstig die bepalings van hierdie klousule ontvang word, moet voor of op die 10de dag van die maand wat volg op die maand waarin hulle ontvang is, aan die Nasionale Kantoor van die Motor Industry Employees' Union of South Africa, oorbetaal word.

(4) Die fondse wat aan die MIEU-ontwikkelingsfonds oorbetaal word, moet geadminestrer word deur 'n komitee wat deur die Nasionale Uitvoerende Raad van die Motor Industry Employee's Union of South Africa ingevolge hul behoorlik geregistreerde konstitusie aangestel word.

KLOUSULE 20: HERSIENING VAN LONE

Die lone in die Motomywerheid voorgeskryf, is deur werkgewersorganisasies en die vakbonde op 'n jaarlikse grondslag bedingbaar.

KLOUSULE 21: REGSKOSTES

(1) Vir doeleindes van hierdie klousule beteken die uitdrukking "geld", enige bedrag geld insluitend geld wat deur 'n werkgewer afgetrek moet word of wat hy afgetrek het, verskuldig aan 'n werknemer soos vereis, maar wat nie deur die werkgewer aan die Raad oorbetaal is nie.

(2) Wanneer die Raad 'n prokureur opdrag gee om gelde te vorder vanaf 'n werkgewer sal die werkgewer aanspreeklik wees aan die Raad vir alle regskostes aangegaan deur die Raad om die verskuldigde bedrag te verhaal, insluitende die koste volgens prokureur-en-eie-klënteskaal, ongeag of die Raad 'n siviele of arbitrasiegeding aanhangig gemaak het.

(3) Wanneer die Raad 'n persoon of 'n regs kundige persoon, maar nie 'n prokureur nie, opdrag gee om gelde te vorder, sal die werkgewer aanspreeklik wees vir die koste en fooie soos bepaal deur die Raad as die koste en fooie betaalbaar deur die Raad aan sodanige persoon ter invordering van die bedrag verskuldig deur die werkgewer.

KLOUSULE 22: RENTEKLOUSULE

Wanneer enige bedrag wat kragtens hierdie Ooreenkoms aan die Raad betaalbaar is, nie op die vervaldatum vereffen word nie, word rente, bereken teen 1,5 persent tot twee persent of gedeelte daarvan, op so 'n bedrag of kleiner bedrag wat nog uitstaande is, gehef.

KLOUSULE 23: VRYSTELLINGSRAAD

(1) Ingevolge artikel 32(3)(e) van die Wet stel die Raad hierby 'n Vrystellingsraad aan om appèlle van nie-partye teen die Raad se weiering van 'n nie-party se aansoek om vrystelling van die bepalings van 'n gepubliseerde kollektiewe ooreenkoms asook dié teen die intrekking van so 'n vrystelling deur die Raad, te oorweeg.

(2) Enige nie partye-werkgewer mag by die Raad aansoek doen om appèl teen die Raad se weiering van 'n aansoek om vrystelling van die bepalings van enige gepubliseerde van enige kollektiewe ooreenkoms en teen die intrekking van sodanige vrystelling deur die Raad. In daardie gevalle is die volgende van toepassing:

- (a) Alle aansoeke om appèl moet skriftelik gerig word aan die betrokke Streeksekretaris vir oorweging deur die Vrystellingsraad wat deur die Raad aangestel is;
- (b) Alle aansoeke om appèl moet oorweeg deur die Raad of Streeksraad met behoorlike inagneming van die kriteria wat in die kollektiewe ooreenkoms vervat is by die oorweging van vrystelling vir nie-partye;
- (c) Alle aansoeke om appèl moet deeglik gestaaf of gemotiveer word deur die applikant en moet die volgende, besonderhede.
 - (i) Die tydperk waarvoor vrystelling benodig word;
 - (ii) die Ooreenkoms en klousules of subklousules van die Ooreenkoms ten opsigte waarvan vrystelling versoek word;
 - (iii) bewys dat die vrystelling waarvoor aansoek gedoen word, wel bespreek is deur die werkgewer en sy werknemers en hul onderskeie verteenwoordigers en die reaksies voortspruitend uit sodanige oorlegplegings hetsy ten gunste van of teen die aansoek.

(3) Die Vrystellingsraad mag, met inagneming van die individuele meriete van elke aansoek, vrystelling van die Ooreenkoms toestaan aan 'n werkgewer of werknemer indien—

- (a) die Ooreenkoms nie ondermyn word nie;
- (b) dit regverdig is teenoor die werkgewer of sy werknemers en ander werkgewers en werknemers in die sektor.

(4) Die Vrystellingsraad moet alle aansoeke oorweeg binne 30 dae na die datum waarop die aansoeke om appèl ingedien is: Met dien verstande dat die Raad 'n besluit mag uitstel tot 'n volgende vergadering indien bykomende staving of inligting of toeligting as noodsaaklik beskou word alvorens 'n besluit oor die aansoek geneem kan word.

(5) Sodra die Vrystellingsraad 'n appèl toegestaan het, moet 'n vrystellingsertifikaat uitgereik word en die applikant(e) binne 14 dae na die datum van so 'n besluit verwittig word.

(6) Wanneer die Vrystellingsraad besluit om 'n aansoek om appèl te weier of gedeeltelik te weier, moet die applikant(e) binne 14 dae na die datum van so 'n besluit verwittig word.

(7) **Kriteria vir vrystelling:** Die Vrystellingsraad moet alle aansoeke om vrystelling oorweeg met verwysing na die volgende:

- (a) die skriftelike staving deur die applikant voorgelê;
- (b) die mate van raadpleging met en die verhoë vir of teen die verlening van vrystelling soos verskaf deur werkgewer of werknemers wat deur die vrystelling geraak sal word, indien toegestaan;
- (c) die bestek van die vrystelling wat verlang word;
- (d) die skending van die regte op basiese diensvoorwaardes;
- (e) die feit dat 'n mededingende voordeel nie geskep word deur die vrystelling nie;
- (f) dat vrystelling van enige werknemervoordelefonds of opleidingsbepaling gesien moet word in verhouding tot die alternatiewe vergelykbare *bona fide*-voordeel of bepaling, met inbegrip van die koste vir die werknemer, oordraagbaarheid, administrasiebestuur en koste, groei en stabiliteit;
- (g) die mate waarin die voorgestelde vrystelling die kollektiewe bedinging en arbeidsvrede in die Motomywerheid ondermyn;
- (h) enige bestaande spesiale ekonomiese of ander omstandighede wat die verlening van die vrystelling regverdig;
 - (i) die inagneming van die aanbevelings vervat in die Verslag van die Presidensiële Kommissie van Ondersoek na die Arbeidsmarkbeleid.
 - (j) enige aanbeveling vanaf die Bedingingsraad.

KLOUSULE 24: BESLEGTING VAN GESKILLE

(1) Vir die doeleindes van hierdie Ooreenkoms beteken "geskil" 'n geskil oor die toepassing, vertolking of afdwing van hierdie Ooreenkoms of enige ander kollektiewe ooreenkomste beding deur die partye by die Raad.

(2) Enige sodanige geskil moet na die Raad verwys word op die vorm soos deur die Raad bepaal. Hierdie bepaling is nie van toepassing wanneer die Raad die prosedure in subparagraaf (4) toepas nie.

(3) Indien die Raad nie daarin slaag om die geskil te besleg deur versoening nie en die geskil bly onbesleg, moet die geskil na die MIBCO-Geskilbeslegtingsentrum ingevolge artikel 52 van die Wet verwys word vir arbitrasie. Die arbiter beskik oor die bevoegdheid om die prosedure wat hy tydens die arbitrasieverhoor wil volg, te bepaal kragtens artikel 138 van die Wet en is daarop geregtig om ten opsigte van die arbitrasiekostes van die partye 'n kostebevel in die arbitrasietoekenning in te sluit ooreenkomstig artikel 138(10) van genoemde Wet.

(4) Die bepaling van hierdie subklousule is geldig benewens enige ander regsmiddel deur middel waarvan die Raad 'n kollektiewe ooreenkoms kan afdwing.

(5) Die arbiter se beslissing is finaal en bindend onderhewig aan die partye se reg op hersiening deur die Arbeidshof.

(6) Enige ander geskil het dieselfde betekenis soos omskryf in die Wet op Arbeidsverhoudinge, 1995, en moet volgens artikel 51 van die genoemde Wet hanteer word.

Namens die partye op hede die 20ste dag van Maart 2001 te Randburg onderteken.

R. BASTICK

President van die Raad

H. MORAPEDI

Lid van die Raad

B. G. DU PREEZ

Hoofsekretaris van die Raad

DIE MOTORNYWERHEID-BEDINGINGSRAAD—MIBCO

AANHANGSEL A

[Soos voorgeskryf in klousule 8 (1) van hierdie Ooreenkoms]

Die Streeksekretaris

Datum:

Die Motorhywerheid-bedingsraad—MIBCO

Streeksraad

Posbus

.....

Meneer

REGISTRASIE AS WERKGEWER IN DIE MOTORNYWERHEID

Ooreenkomstig klousule 8 (1) verstrek ek hierby onderstaande besonderhede in verband met hierdie sakeonderneming:

1. Naam waaronder die sakeonderneming gedryf word
2. Adres waar saak gedryf word
3. Telefoonno.
Faksno.
E-posadres:
4. Adres van hoofkantoor (waar van toepassing)
5. Aard van sakeonderneming
6. Datum waarop met sake begin is
7. Name en adresse van:
 - Eienaar
 - of Vennote
 - of Direkteure
 - of Lede
 - Bestuurder en/of Sekretaris
 (Waar enige van hierdie persone aktief werksaam is in die sakeonderneming, moet die aard van sy dienste tussen hakies langsaan sy naam gemeld word)
8. Besonderhede van werknemers:
 - Getal vakmanne
 - Getal vakleerlinge
 - Getal klerke en verkooppersone
 - Getal algemene werkers
 - Getal ander werknemers
9. Naam van werkgewersorganisasie waarvan ek lid is

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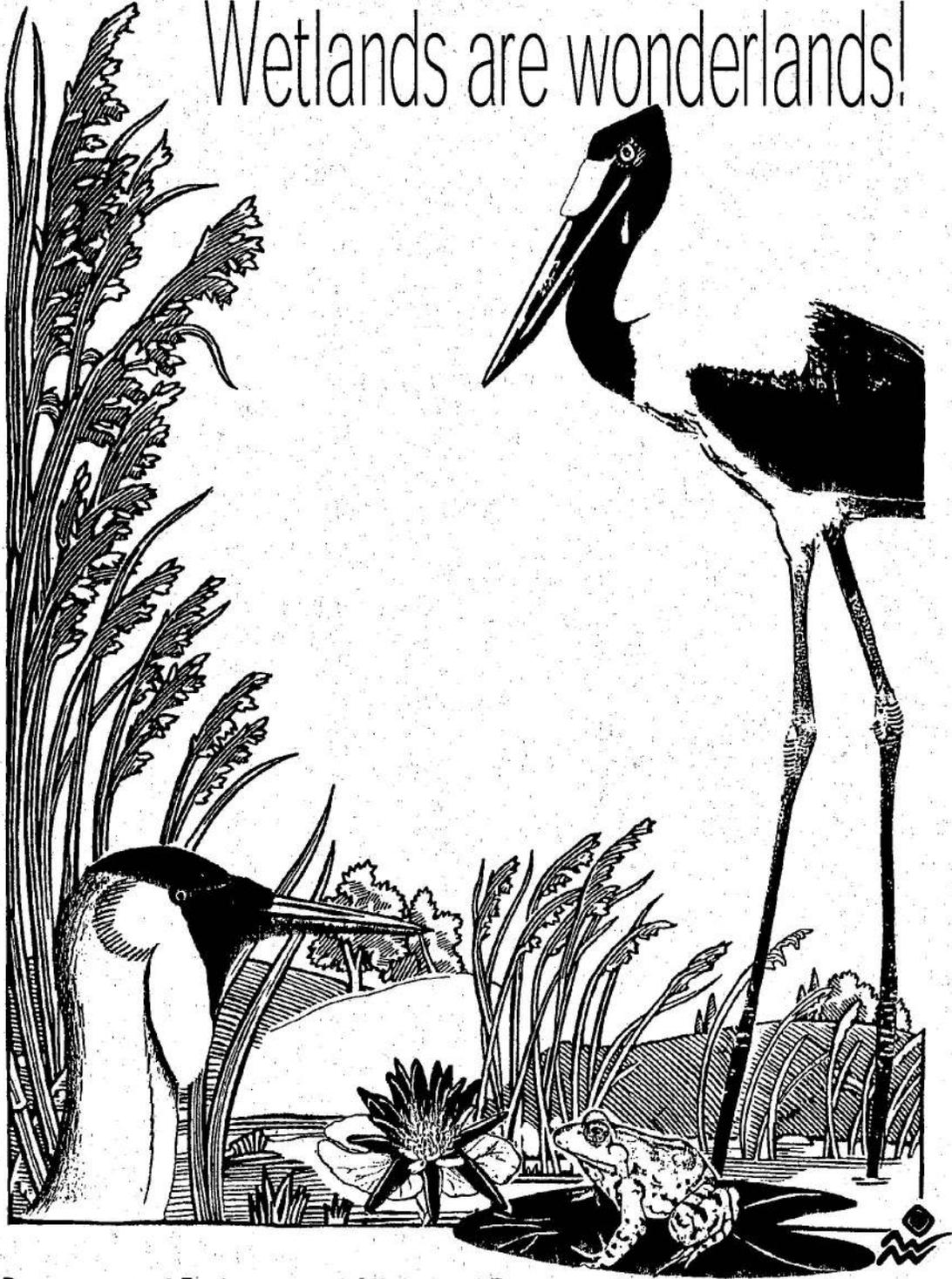
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