

(2 August 2002 - to date)

## **BASIC CONDITIONS OF EMPLOYMENT ACT 75 OF 1997**

*(Gazette No. 18491, Notice No. 1631. Commencement date: 1 December 1998)*

### **SECTORAL DETERMINATION 4: CLOTHING AND KNITTING SECTOR, SOUTH AFRICA**

*Government Notice R1007 in Government Gazette 21643, dated 13 October 2000. Commencement date:  
30 October 2000.*

#### **As amended by:**

*Government Notice R423 in Government Gazette 23306, dated 5 April 2002 (Correction Notice).  
Commencement date: 5 April 2002.*

*Government Notice R1015 in Government Gazette 23664, dated 2 August 2002. Commencement date:  
2 August 2002.*

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of Section 55(1) of the Basic Conditions of Employment Act, 1997, make the Sectoral Determination in the Schedule in respect of the Clothing and Knitting Sector and fix the third Monday after the date of publication of this notice as the date from which the provisions of this determination shall be binding upon all employers and employees in the Sector.

**M M S MDLADLANA, MP**

**Minister of Labour**

## **SCHEDULE**

### **TABLE OF CONTENTS**

1. DEFINITIONS
2. AREA AND SCOPE OF DETERMINATION
3. REMUNERATION
4. PAYMENT OF REMUNERATION
5. INFORMATION CONCERNING REMUNERATION
6. DEDUCTIONS AND OTHER MATTERS CONCERNING REMUNERATION
7. HOURS OF WORK AND OVERTIME
8. NIGHT WORK
9. COMPRESSED WORKING WEEK
10. AVERAGING OF HOURS OF WORK

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11. PAYMENT FOR WORK ON A SUNDAY
12. PUBLIC HOLIDAYS
13. ANNUAL LEAVE
14. SICK LEAVE
15. MATERNITY LEAVE
16. FAMILY RESPONSIBILITY LEAVE
17. PIECE WORK
18. COMMISSION WORK
19. PROHIBITION OF EMPLOYMENT
20. TERMINATION OF CONTRACT OF EMPLOYMENT
21. SEVERANCE PAY
22. CERTIFICATE OF SERVICE
23. UNIFORMS, OVERALLS AND PROTECTIVE CLOTHING
24. ATTENDANCE REGISTER
25. WRITTEN PARTICULARS OF EMPLOYMENT
26. LOG BOOK
27. KEEPING OF A SECTORAL DETERMINATION

Annexure A - Certificate of service

Annexure B - Attendance register

Annexure C - Name and class of employee

Annexure D - Daily log

## DEFINITIONS

### 1. Definitions

In this determination any word or expression to which a meaning has been assigned in the Basic Conditions of Employment Act, 1997, has the meaning so assigned, unless the context indicates otherwise:

**“agreement”** includes a collective agreement;

**“Bespoke Tailoring Industry”** means the making of outer garments for and to the measurements of individual persons but excludes the making of tailored outer garments for the execution of special measure orders from dealers whose customers' measurements are taken by or are the responsibility of such dealers and the making of all classes of garments including quantity production tailoring made to the order of any department in the national or provincial sphere of government; Transnet and the South African Airways or local government;

**“CCMA”** means the Commission for Conciliation, Mediation and Arbitration established in terms of section 112 of the Labour Relations Act, 1995;

**“commission work”** means any system under which an employee receives additional remuneration calculated on the value or volume of sales effected or on the value or number of orders submitted to and accepted by the employer;

**“daily wage”** means an employee’s weekly wage divided by the number of days on which he or she ordinarily works in a week;

**“day”** means a period of 24 hours measured from the time when the employee normally commences work;

**“emergency work”** means work which is required to be done without delay owing to circumstances for which the employer could not reasonably have been expected to make provision and which cannot be performed by employees during their ordinary hours of work;

**“employee”** means any person excluding an independent contractor, who works for another person for more than 24 hours per month in the clothing and knitting sector and who receives, or is entitled to receive, any remuneration;

**“establishment”** means any premises or part thereof, on or in connection with which one or more employees are employed in the clothing and knitting sector;

**“experience”** means the total period of employment an employee has had in the Bespoke Tailoring or the Clothing and Knitting Industry, whether within the Republic of South Africa or elsewhere, in any capacity other than as a driver of a motor vehicle, or a mechanic, and shall include—

- (a) in the case of a clerical employee, all periods of employment which such employee has had as a clerical employee, irrespective of the trade, industry or undertaking in which such experience was gained;
- (b) in the case of a presser or folder who has been in the laundry trade, seeking employment as a presser, ironer or folder in the clothing industry, half of his or her total experience in the laundry trade;
- (c) in the case of all other employees, each completed period of six months’ training in any work similar to that for which wages are set out in this Determination;

*(Definition of “experience” corrected by Clause 1 of Government Notice R423 in Government Gazette 23306, dated 5 April 2002)*

**“fully fashioned garment”** means a garment of which the form or body, body and sleeve, or sleeves, back and front, are fully shaped on a knitting machine;

**“hourly wage”** means an employee’s weekly wage divided by his weekly ordinary hours of work;

**“incapacity”** means inability to work owing to any sickness or injury other than sickness or injury caused by an employee’s own misconduct: Provided that any such inability to work, caused by an accident or scheduled disease for which compensation is payable under the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993), shall only be regarded as incapacity during any period in respect of which no disability payment is payable in terms of that Act.

**“laundry trade”** means the trade in which employers and employees are associated for the purpose of laundering, cleaning or dyeing all types of woven, spun, knitted or crocheted fabrics or articles made from such fabrics, including all operations incidental thereto or consequent thereon, if carried out by such employers and their employees;

**“law”** includes the common law;

**“medical practitioner”** means—

- (a) a person entitled to practice as a medical practitioner in terms of section 17 of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 50 of 1974); or
- (b) a traditional healer;

**“midwife”** means a person registered or enrolled to practice as a midwife in terms of section 16 of the Nursing Act, 1978 (Act No. 50 of 1978);

**“month”** means a calendar month;

**“monthly wage”** means an employee’s weekly wage multiplied by four and a third;

**“night work”** means work performed after 18:00 and before 06:00 the next day;

**“ordinary hours of work”** means the hours of work prescribed in clause 7 but if by agreement between an employer and the employee the latter works a lesser number of ordinary hours, it means such shorter hours;

**“overtime”** means the time that an employee works during a day or a week in excess of ordinary hours of work, including overtime worked on a Sunday;

**“public holiday”** means all public holidays declared as such in terms of the Public Holidays Act, 1994 (Act No. 36 of 1994);

**“piece-work”** means any system by which earnings are calculated upon the quantity or output of work performed;

**“remuneration”** means any payment in money or in kind, or both in money and in kind, made or owing to any person in return for that person working for any other person, including the State, and “remunerate” has a corresponding meaning;

**“retail dressmaking”** means the making of single garments for girls and women to the measurement of individual persons, not as special measure orders from dealers whose customers’ measurements are taken by or are the responsibility of such dealers;

**“retail millinery”** means the making of hats in shops for sale in such shops and the making of hats to the measurements of individual persons;

**“short time”** means a temporary reduction in the number of ordinary hours of work owing to slackness of trade, shortage of raw materials, vagaries of the weather, a breakdown of plant or machinery or buildings that are unfit for use or is or are in danger of becoming unfit for use;

**“the Act”** means the Basic Conditions of Employment Act, 1997;

**“wage”** means that amount of money payable to an employee in terms of clause 3(1) in respect of his or her ordinary hours of work: Provided that if an employer regularly pays an employee in respect of such ordinary hours of work an amount higher than that prescribed in clause 3, it means such higher amount, and “weekly wage” has a corresponding meaning;

**“week”** in relation to an employee, means the period of seven days within which the working week of that employee ordinarily falls;

**“work place”** means any place where employees work;

## **1.1 Definitions Of The Occupations, Capacities And Duties Of Employees In The Clothing Division And Knitting Division:**

### **(a) Definitions Of The Occupations, Capacities And Duties Of Employees In The Clothing Division Only**

**“Category A Employee”** means an employee engaged in any one or more of the following duties or capacities in the clothing division:

- (1) assistant storeperson;
- (2) automatic hydraulic hat presser;
- (3) belt person;

- (4) boiler attendant;
- (5) cardboard box maker;
- (6) cleaner;
- (7) coat turner;
- (8) covering buckles by hand or machine and/or trimming and cleaning belts after lining and belt have been machined together;
- (9) cutter of traveller's swatches;
- (10) despatch packer,
- (11) eyelet punching and letting;
- (12) general worker
- (13) guiding material with paper through automatic pleating machine;
- (14) hat sprayer;
- (15) ironer of fusible interlinings with hand iron positioning and spot fusing of fusible interlinings with special machine;
- (16) layer by hand;
- (17) layer by machine;
- (18) marker;
- (19) operator;
- (20) packer;
- (21) patent turner (hand or machine);
- (22) pinner;
- (23) plain sewer;

- (24) putting fasteners on caps;
- (25) putting material between two paper looms (formers) and preparing for steambox in hand or loom pleating process;
- (26) putting prepared formers in steam box and taking them out again in hand or loom pleating;
- (27) riveting buckles, bending belt buckles, punching holes for buckles and prongs, pressing prongs into buckles, stapling buckles onto belt;
- (28) rubberising, i.e. waterproofing processes or the work of smearing rubber solution upon seams or edges and rolling them over with a small wooden hand roller, cleaning off any rubber solution, painting seams or oilskins and waterproof hats;
- (29) sorter;
- (30) spreading of P V C (plastic solution) in waterproofing process or on raincoats and protective wear;
- (31) stamper;
- (32) raking material out of looms in hand or loom pleating process;
- (33) waterproofing seams;
- (34) winder;
- (35) under-presser.

**“assistant storeperson”** means an employee other than a labourer who, under the supervision of a storeperson, assists in issuing or receiving goods;

**“automatic hydraulic hat presser”** means an employee operating an automatic hydraulic hat press used solely for shaping hats;

**“belt person”** means an employee other than a learner mechanic, engaged in fixing machine belts, oiling bearings, filling oil cans and similar work and assisting the establishment’s mechanic;

**“boiler attendant”** means an employee under the supervision of a foreperson or factory manager, who is responsible for maintaining the water level and steam pressure of a boiler in an establishment, and who may stoke, rake, slice and draw the fire in such boiler;

**“cardboard box maker”** means an employee engaged in operating a cardboard box making machine;

**“cleaner”**, means an employee engaged in cutting or trimming off loose ends of cotton left in the garments by previous operators;

**“coat-turner”** means an employee engaged in turning coat facings out after machining;

**“despatch packer”** means an employee who, under the supervision of a foreperson or clerical employee, is wholly or mainly engaged in making up orders and in packing goods for transport, including the sealing of cellophane bags by hand or machine, or delivering in connection with the despatch department of an establishment;

**“general worker”** means an employee who is engaged in one or more of the following occupations:

- (a) binding, wiring or strapping boxes or bales or other containers;
- (b) carrying or stacking goods;
- (c) delivering letters or messages or light parcels within the factory premises;
- (d) folding or inserting mail, affixing postage stamps or labels for posting;
- (e) general gardening work;
- (f) loading or unloading vehicles, trailers or international standard containers;
- (g) making and serving tea or similar beverages and washing crockery, cutlery and kitchen utensils;
- (h) marking, stencilling or affixing labels on boxes, bales or other containers by hand;
- (i) mixing rubber solution for rubberised garments;
- (j) mopping or washing of toilet facilities;
- (k) operating a duplicating or addressograph or franking machine;



(l) sweeping with a broom or dusting and wiping down chairs and tables;

(m) washing or polishing of floors and staircases by machine or by hand.

**“hat sprayer”** means an employee engaged in spray painting hats;

**“ironer”** means an employee engaged in the ironing of fusible interlinings with hand iron positioning and spot fusing of fusible interlinings with special machine;

**“layer by hand”** means an employee engaged in laying up materials by hand preparatory to cutting;

**“layer by machine”** means an employee engaged in laying materials by machine preparatory to cutting;

**“marker”** means an employee engaged in marking the position of pockets, buttons and/or button holes;

**“operator”** means an employee who operates a—

- (a) hand operated button-covering machine;
- (b) a shrinking press;
- (c) a semi-automatic or automatic fusing machine;
- (d) semi-automatic press stud-machine; or
- (e) zip machine.

**“packer”** means an employee engaged in packing garments into boxes or other suitable wrappings or tying them into bundles prior to their being sent to the dispatch department;

**“patent turner”** means an employee engaged in turning out or over the edges of collars, facings, bands, cuffs, pockets or flaps whether by hand or machine;

**“pinner”** means an employee engaged in pinning unfinished or finished garments;

**“plain sewer”** means an employee engaged solely in performing by hand one or more of the following operations:

tacking permanent turn-ups; tacking waistband linings; sewing on hooks and eyes, tickets or press studs; fastening catch in tops of trousers; sewing on buttons; making and sewing on hangers; felling crutch linings in trousers, felling bottoms and waist-band linings, and various odds and ends of sewing; felling necks of vests; fastening edge stays and odds and ends of sewing; felling bottoms of linings or seams of same already basted into position; felling bindings; fastening facings inside already basted in position;

**“sorter”** means an employee engaged in sorting out garments or parts of garments for the various operations;

**“stamper”** means an employee engaged in stamping the size or identity work numbers on garments or parts of garments, or on any article connected with packaging or despatching of garments;

**“winder”** means an employee engaged in the winding or unwinding of lace, embroidery, braids, ribbons, bindings and elastic;

**“under-presser”** means an employee other than a presser employed in pressing processes.

**“Category B Employee”** means an employee engaged in one or more but not limited to the following duties or capacities in the clothing division:

- (1) baster;
- (2) clicker;
- (3) conveyor feeder;
- (4) cutter;
- (5) examiner;
- (6) factory clerk;
- (7) finisher by hand;
- (8) fitter-up;
- (9) folder;
- (10) lay copier;

- (11) machinist;
- (12) maker of bows for dresses;
- (13) operator of automatic lace, embroidery or monogramming machine;
- (14) presser;
- (15) seam welder;
- (16) setter of automatic pleating machines;
- (17) shaper;
- (18) sloper.

**“baster”** means an employee engaged in hand sewing in setting a coat or parts of a coat into position preparatory to other operations or underbasting, i.e. hand sewing of linings of coats into position preparatory to sewing the edge seams;

**“clicker”** means an employee who cuts out parts of garments from dyes using a mechanical or hydraulic press;

**“conveyor feeder”** means an employee responsible for feeding prepared parts of garments on to a conveyor for further operations and who may be assisted by one or more sorters;

**“cutter”** means an employee who cuts out all articles of wearing apparel, linings, trimmings or interlinings by any method;

**“examiner”** means an employee who examines finished garments for quality;

**“finisher by hand”** means an employee who performs one or more of the following operations by hand:

- (a) putting pads or wadding into shoulders of coats;
- (b) fastening or serging sleeve-heads;
- (c) wadding sleeve-heads;
- (d) felling silk facings already basted into position;

- (e) making button-holes by hand;
- (f) felling sleeve-head linings, holding such in position with the fingers;
- (g) beader or embroiderer by hand.

**“fitter-up”** means an employee who takes the outside of garments together with the cut out linings (called trimmings) and adjusts the outside and insides together accurately so that parts may go forward to the machine to be put together correctly;

**“folder”** means an employee engaged in the folding of garments by machine or by hand and buttoning up of garments;

**“lay copier”** means an employee engaged in placing of numbered patterns on a lay to conform with a numbered photograph, diagram or plan;

**“machinist”** means an employee who performs by sewing machine any operation in the making of clothing;

**“presser”** means an employee employed in pressing the finished garment by hand or machine;

**“seam welder”** means an employee who joins seams by any method other than by a thread-sewing machine;

**“setter of automatic pleating machines”** means an employee engaged in setting of pleats on automatic pleating machines;

**“shaper”** means an employee engaged in shaping the lapels and collars of coats preparatory to under basting;

**“sloper”** means an employee engaged in marking or trimming the shape of the necks in the shirt section, preparatory to other operations.

**(b) Occupations, Capacities And Duties Of Employees In The Knitting Division only:**

**“Category C Employee”** means an employee engaged in any one or more of the following capacities or duties in the knitting division:

- (1) colouring mass-measurer;
- (2) cutter;

- (3) dyer's assistant;
- (4) handyperson;
- (5) knitting machine operator;
- (6) linker;
- (7) loader of magazine or comb;
- (8) mender;
- (9) overlocker;
- (10) plain sewer;
- (11) sewing machinist including button, buttonhole and hemming machinist;
- (12) shaper of fully fashioned garments;
- (13) warper;
- (14) wrap knitter.

**“colouring mass-measurer”** means an employee who, under the supervision of a dyer, mass-measures dye-stuff or other chemicals;

**“cutter”** means an employee who by means of a power-driven cutting machine, knife or shears is engaged in cutting garment lengths, fronts, backs or sleeves of fully fashioned garments or trimmings, who marks or cuts attachments, points of necks or armholes or trimmings and who may use a template for this purpose;

**“dyer's assistant”** means an employee who, under the supervision of a dyer, is engaged in mass-measuring or mixing colour substances or attending or operating machines used in the dyeing or finishing processes;

**“handyperson”** means an employee in a knitting establishment who does minor repairs or adjustments to machinery or equipment, other than machinery or equipment directly used in the manufacture of the products of an establishment, and who may effect minor repairs or renovations to buildings but who does not perform work normally done by an artisan;

**“knitting machine operator”** means an employee who operates one or a set of knitting machines and who may change needles, sliders and sinkers and straighten tricks, including chain and card control and running on after press-offs;

**“linker”** means an employee who is engaged in operating a linking machine for toe-closing of stockings or socks or for joining parts of fully fashioned garments or attaching trimmings to fully fashioned garments or parts of garments;

**“loader of magazine or comb”** means an employee engaged in the transferring of stitches onto the needles of a bar or magazine;

**“mender”** means an employee who is engaged in repairing knitting faults in garments or parts of garments, blanks, stockings or socks;

**“overlocker”** means an employee who operates an overlocking machine;

**“plain sewer”** means an employee engaged solely in performing by hand one or more of the following operations:

- (a) tacking permanent turn-ups; tacking waistband linings;
- (b) sewing on hooks and eyes, tickets and/or press studs;
- (c) fastening catch in tops of trousers;
- (d) sewing on buttons;
- (e) making and sewing on hangers;
- (f) felling crutch linings in trousers;
- (g) felling bottoms and waist-band linings, and various odds and ends of sewing;
- (h) felling necks of vests;
- (i) fastening edge stays and odds and ends of sewing;
- (j) felling bottoms of linings or seams of same already basted into position;
- (k) felling bindings and fastening facings inside already basted in position.

**“sewing machinist”** means an employee who by means of a sewing machine is engaged in any operation in the making of clothing including button, buttonhole and hemming machinist;

**“shaper of fully fashioned garments”** means an employee in a knitting establishment who, by means of a power-driven cutting machine, knife or shears is engaged in cutting garment lengths, fronts, backs or sleeves of fully fashioned garments or trimmings, who marks or cuts attachments, points of necks or armholes or trimmings and who may use a template for this purpose;

**“warper”** means an employee who prepares warps from cones or bobbins for a warp knitting or similar machine and prepares the beam;

**“wrap knitter”** means an employee operating one or a set of warp knitting machines and who may correct faults, change or straighten needles, fill bars or make minor adjustments to such machines.

**“Category D Employee”** means an employee engaged in any one or more of the following capacities or duties in the knitting division:

**“backwinder”** means an employee who recovers yarn from a knitted article by winding it back onto a bobbin, comb, magazine or spool;

**“boiler attendant”** means an employee who, under supervision, maintains the water level and steam pressure in a boiler and who may make, maintain and draw the fire in such boiler;

**“cleaner”** means an employee engaged in cutting or trimming off loose ends of cotton or cloth left on garments or parts of garments by previous operators;

**“despatch packer”** means an employee who, under the supervision of a despatch clerk, is engaged in packing, assembling, marking, addressing and mass-measuring goods for despatch or delivery;

**“draw threader”** means an employee who separates knitted articles by removing the drawthread;

**“examiner”** means an employee who examines finished garments for quality;

**“floorwalker or runner”** means an employee engaged in carrying garments or parts of garments from one place to another within the workplace;

**“general worker”** means an employee who is engaged in one or more of the following duties:

- (a) binding, wiring or strapping boxes or bales or other containers;
- (b) carrying or stacking goods;
- (c) cutting up or otherwise destroying rejected hosiery or fabrics;
- (d) delivering letters or messages or light parcels within the factory premises;
- (e) folding or inserting mail, affixing postage stamps or labels for posting;
- (f) general gardening work;
- (g) lime-washing or colour-washing buildings or other structures;
- (h) loading or unloading vehicles, trailers or international standard containers;
- (i) making or maintaining fires, or removing refuse or ashes;
- (j) making and serving tea or similar beverages and washing crockery, cutlery and kitchen utensils;
- (k) marking, stencilling or affixing labels on boxes, bales or other containers by hand;
- (l) mixing rubber solution for rubberised garments;
- (m) mopping or washing of toilet facilities;
- (n) operating a duplicating or addressograph or franking machine;
- (o) sweeping with a broom or dusting and wiping down chairs and tables;
- (p) washing or polishing of floors and staircases by machine or by hand.

**“grader or sorter”** means an employee who is engaged in sorting or grading hosiery into pairs according to length and size or sorting trimmings, materials or parts of fully fashioned garments;

**“mender of socks”** means an employee who is engaged in repairing knitting faults in garments or parts of garments, blanks, stockings or socks;

**“operator”** means an employee who is an operator of a—

- (a) calendar machine;



- (b) slitting machine;
- (c) brushing, raising or cropping;
- (d) dye machine;
- (e) dyeing or hydro-extracting machine.

**“parcel maker”** means an employee engaged in closing or sealing parcels and cartons prior to despatch and delivery;

**“presser”** means an employee who is engaged in the ironing or pressing of finished garments by hand or machine, excluding open steam pressing or boarding of garments on automatic continuous steam belts;

**“pre-or post boarder or former”** means an employee who is engaged in placing or removing stockings, socks or garments on or from forms;

**“sampler”** means an employee engaged in the making up of sample cards;

**“seamer”** means an employee who is engaged in joining seams in stockings or socks by means of a seaming machine;

**“turner”** means an employee engaged in turning out or over the edges of collars, facings, bands, cuffs, pockets or flaps whether by hand or machine;

**“winder”** means an employee who is engaged in operating a yarn-winding machine;

**“yarn changer”** (pig tailor) means an employee who is responsible for loading and unloading the yarn on knitting machines, or an employee who brings yarn to and from the machines, removes fabric and cleans the machines and may stop the machine to change the yarn and may restart the machine only if he or she stopped the machine for the purpose of changing the yarn and shall not carry out any other functions of the knitting machine operator.

**(c) Occupations, Capacities And Duties Of Employees In The Clothing And Knitting Division**

**“Category E Employee”** means an employee engaged in any one or more of the following duties or capacities in the knitting division:

- (1) assistant foreperson;

- (2) dyer;
- (3) patternmaker;
- (4) supervisor; and
- (5) mechanic.

**“assistant foreperson”** means an employee who under the supervision of a foreperson, is in charge of the employees, other than clerks, storepersons and dyers, in an establishment, who exercises control over such employees and who is responsible to the foreperson for the efficient performance by them and their duties;

**“mechanic”** means an employee engaged in the installation, repair and maintenance of boilers and machinery;

**“pattern maker”** means an employee engaged in designing or making master patterns;

**“dyer”** means an employee who is responsible for and engaged in dyeing or other finishing processes and who decides on the nature, mass, blending and application of the dyes or other chemicals to be used;

**“supervisor”** means an employee who, under the supervision of a foreperson is in charge of a group of employees in an establishment and who is responsible for the efficient performance by them of their duties and who may supervise set leaders or team leaders.

**(d) Other Occupations, Capacities And Duties Of Employees In The Clothing And Knitting Division:**

**“band knife cutter”** means an employee who cuts out all articles of wearing apparel, linings, trimmings or interlinings with a band knife;

**“clerical employee”** means an employee who is engaged in:

- (a) writing, typing and filing;
- (b) operating a calculating machine, computer terminal, punch-card machine or accounting machine;
- (c) any other clerical work and includes a cashier, despatch clerk, storeperson, shipping clerk, invoice clerk, workstudy clerk and telephone switchboard operator but does not

include any other class of employee elsewhere defined, even though clerical work may form part of such an employee's work.

**“assistant head cutter”** means a person who assists the head-cutter in creating designs, styles, fashions and in making patterns, grading patterns and planning cutting jobs;

**“head cutter”** means a person who actively supervises the cutting room and designs, styles and fashions makes patterns, grades patterns and who plans cutting jobs;

**“watchperson”** means an employee engaged in guarding premises, buildings or other property;

**“driver of a motor vehicle”** means an employee who is engaged in driving a motor vehicle and for the purpose of this definition “driving a motor vehicle” includes all periods of driving and any times spent by the driver on work connected with the vehicle or the load and all periods during which he or she is obliged to remain at his or her post in readiness to drive.

## 2. AREA AND SCOPE OF DETERMINATION

- (1) This determination shall apply to every employer in the Clothing and Knitting Sector as defined in subclause (2) and to all employees in that sector: Provided that the Determination shall not apply to—
  - (a) a new employer as defined in subclause (3);
  - (b) a manager as defined in subclause (4).
- (2) **“clothing and knitting sector”** or **“the sector”** means the sector in which employers and employees are associated for the purpose of—
  - (a) making, irrespective of the process or method used in such making, any one or more of the following classes of clothing, and includes the knitting of such articles as—
    - (i) all classes of men's and boys' tweed and linen hats and caps;
    - (ii) all classes of outer and undergarments for day wear, including shirts, collars, ties, socks, scarves, cloth belts and part of garments;
    - (iii) pajamas and other nightwear;
    - (iv) protective clothing;
    - (v) ladies' or men's gloves;

- (vi) stockings or socks;
  - (vii) all classes of garments including quantity production tailoring made to the order of any Department in the national or provincial sphere of government; Transnet; the South African Airways; or Local government;
  - (viii) tailored outer garments for the execution of special measure orders from dealers whose customers measurements are taken by or on behalf of such dealers; and
- (b) conducting the knitting of clothing fabric where this is performed in conjunction with the manufacture of any one or more of the articles mentioned in (a)

but does not include—

- (i) retail dressing, retail millinery or the making of garments to the measurement of individual persons;
- (ii) any manufacturing activity in the clothing, knitting or ladies' stockings industry for which a bargaining council is registered or deemed to have been registered in terms of the Labour Relations Act, and in respect of which that bargaining council has concluded a collective agreement covering essentially the same issues, and which is binding on such employers and employees.

*(Clause 2(2)(b)(iii) renumbered to (ii) by Government Notice R423 in Government Gazette 23306, dated 5 April 2002)*

*(Clause 2(2)(b)(ii) (incorrectly referred to as 2(2)(b)(iii)) substituted by Government Notice R1015 in Government Gazette 23664, dated 2 August 2002)*

- (3) **“New employer”** means a business newly established in the clothing and knitting sector, during the first 12 months of its existence in the sector; Provided that if an existing business undergoes a change of name or ownership (including a change of directors, members or partners) while largely retaining the same employees and/or clients, it shall not be regarded as a new employer. [See also the proviso to clause 3(1)].
- (4) **“manager”** means an employee who is charged by the employer with the overall supervision over, responsibility for and direction of the activities of an establishment or part of an establishment and the employees engaged therein, but does not include an employee in the same establishment who relieves or acts for a manager during the latter's absence.

### 3. Remuneration

(1) Minimum wages: The minimum wages which an employer shall pay to employees shall be as specified herein and shall become binding on the date on which this determination comes into operation: Provided that—

- (i) if a new employer, as defined in clause 2(3), has been engaged in the sector for a period of not more than 12 months such wages may be reduced by not more than 10 per cent during such period, whereafter the minimum wages specified herein shall become payable.
- (ii) an employer who, at the coming into effect of this determination, employs not more than 30 employees in the aggregate in or in connection with his business and whose annual turnover does not exceed R450 000.00 shall pay his employees, in the first 12 months after the coming into effect of this determination, 70% of the wages specified herein and thereafter pay the minimum wages as specified. For the purpose of this subclause “annual turnover” means, at any date, the turnover for the preceeding *[sic]* 12 months.

### WAGES FOR EMPLOYEES IN THE CLOTHING DIVISION

#### CATEGORY A

IN THE MAGISTERIAL DISTRICT OF HAMMARSDALE, CAMPERDOWN, UMZINTO, PAARL, STELLENBOSCH AND UITENHAGE				IN ALL OTHER AREAS			
	First 12 months	Second 12 months	Third 12 months & thereafter		First 12 months	Second 12 months	Third 12 months & thereafter
	Per week	Per week	Per week		Per week	Per week	Per week
0-6 months of experience	207.81	222.31	241.65	0-6 months of experience	144.99	159.48	178.82
7-12 months of experience	275.15	294.35	319.95	7-12 months of experience	191.97	211.16	236.76

“**Category A**” means an employee engaged in any one or more of the following capacities or duties in the clothing division:

**Capacities:** Assistant Storeperson / Automatic Hydraulic Hat Presser / Belt Person/ Boiler Attendant / Cardboard Box Maker / Cleaner / Coat Turner / Cutter Of Traveller’s Swatches / Despatch Packer / General Worker / Hat Sprayers / Ironer / Layer by Hand / Layer by Machine / Marker / Operator / Packer / Patent Turner / Pinner / Plain Sewer / Sorter / Stamper / Winder /

**Duties:** covering buckles by hand or machine and/or trimming and cleaning belts after lining and belts have been machined together / eyelet punching and letting / guiding material with paper through automatic pleating machine / putting fasteners on caps / putting material between two paper looms (formers) and preparing for steam box in hand or loom pleating process / putting prepared formers in steam box and taking them out again in hand or loom pleating / riveting buckles, bending belt buckles / punching holes for buckles and prongs / pressing prongs into buckles / stapling buckles onto belt / rubberising, i.e. waterproofing processes on the work of smearing rubber solution upon seams or edges and rolling them over with a small wooden hand roller / cleaning off any rubber solution, painting seams or oilskins and waterproof hats / spreading of P V C (plastic solution) in waterproofing process and/or on raincoats and protective wear / raking material out of looms in hand or loom pleating process.

### WAGES FOR EMPLOYEES IN THE CLOTHING DIVISION

#### CATEGORY B

IN THE MAGISTERIAL DISTRICT OF HAMMARSDALE, CAMPERDOWN, UMZINTO, PAARL, STELLENBOSCH AND UITENHAGE				IN ALL OTHER AREAS			
	First 12 months	Second 12 months	Third 12 months & thereafter		First 12 months	Second 12 months	Third 12 months & thereafter
	Per week	Per week	Per week		Per week	Per week	Per week
0-6 months of experience	210.52	225.21	244.80	0-6 months of experience	146.88	161.56	181.15
7-12 months of experience	230.65	246.74	268.20	7-12 months of experience	160.92	177.01	198.46
13-18 months of experience	250.00	267.44	290.70	13-18 months of experience	174.42	191.86	215.11
19-24 months of experience	275.15	294.35	319.95	19-24 months of experience	191.97	211.16	236.76

**“Category B”** means an employee engaged in any one or more of the following capacities or duties in the clothing division:

Baster / Clicker / Conveyor Feeder / Cutter / Examiner / Finisher by Hand / Fitter-Up / Folder / Lay Copier / Machinist / Maker of Bows for Dresses / Operator of Automatic Lace, Embroidery or Monogramming

Machine / Presser / Seam Welder / Setter of Automatic Pleating Machines / Shaper / Sloper / Any Other Employee Not Elsewhere Specified / Factory Clerk.

### WAGES FOR EMPLOYEES IN THE KNITTING DIVISION

#### CATEGORY C

IN THE MAGISTERIAL DISTRICT OF HAMMARSDALE, CAMPERDOWN, UMZINTO, PAARL, STELLENBOSCH AND UITENHAGE				IN ALL OTHER AREAS			
	First 12 months	Second 12 months	Third 12 months & thereafter		First 12 months	Second 12 months	Third 12 months & thereafter
	Per week	Per week	Per week		Per week	Per week	Per week
0-6 months of experience	236.45	252.95	274.95	0-6 months of experience	164.97	181.46	203.46
7-12 months of experience	268.57	287.31	312.30	7-12 of experience months	187.38	206.11	231.10
13-18 months of experience	300.69	321.67	349.65	13-18 months of experience	209.79	230.76	258.74
19-24 months of experience	332.43	355.62	386.55	19-24 months of experience	231.93	255.12	286.04
25+ months of experience	364.55	389.98	423.90	25+ months of experience	254.34	279.77	313.68

“**Category C**” means an employee engaged in any one or more of the following capacities or duties in the knitting division:

Colouring Mass-Measurer / Cutter / Dyer’s Assistant / Handyperson / Knitting Machine Operator / Linker / Loader of magazine or comb Mender / Overlocker / Plain Sewer / Sewing Machinist including button, buttonhole and hemming machinist / Shaper of fully fashioned garments / Warper / Wrap Knitter.

### WAGES FOR EMPLOYEES IN THE KNITTING DIVISION

#### CATEGORY D

Prepared by:

IN THE MAGISTERIAL DISTRICT OF HAMMARSDALE, CAMPERDOWN, UMZINTO, PAARL, STELLENBOSCH AND UITENHAGE				IN ALL OTHER AREAS			
	First 12 months	Second 12 months	Third 12 months & thereafter		First 12 months	Second 12 months	Third 12 months & thereafter
	Per week	Per week	Per week		Per week	Per week	Per week
0-6 months of experience	236.45	252.95	274.95	0-6 months of experience	161.97	181.46	203.46
7-12 months of experience	260.06	278.20	302.40	7-12 months of experience	181.44	199.58	223.77
13-18 months of experience	284.05	303.87	339.30	13-18 months of experience	198.18	217.99	244.42
19-24 months of experience	307.66	329.13	357.75	19-24 months of experience	214.65	236.11	264.73
25+ months of experience	357.20	382.12	415.35	25+months of experience	249.21	274.13	307.35

**“Category D”** means an employee engaged in any one or more of the following capacities or duties in the knitting division:

**Capacities:** Backwinder / Boiler Attendant / Cleaner / Despatch Packer / Draw Threader / Examiner / Floorwalker / General Worker / Grader / Mender of socks / Operator / Parcel Maker / Pre-Cutter / Presser / Pre-or post boarder or former / Sampler / Seamer / Sorter / Turner / Winder / Yarn changer (pig taylor).

**Duties:** Employees engaged in transferring, labeling, trimming off surplus threads / folding / carding and/or packing.

## WAGES FOR EMPLOYEES IN THE CLOTHING AND KNITTING DIVISION

### CATEGORY E

IN THE MAGISTERIAL DISTRICT OF HAMMARSDALE, CAMPERDOWN, UMZINTO, PAARL, STELLENBOSCH AND UITENHAGE	IN ALL OTHER AREAS
--	--------------------



	<b>First 12 months</b>	<b>Second 12 months</b>	<b>Third 12 months &amp; thereafter</b>		<b>First 12 months</b>	<b>Second 12 months</b>	<b>Third 12 months &amp; thereafter</b>
	<b>Per week</b>	<b>Per week</b>	<b>Per week</b>		<b>Per week</b>	<b>Per week</b>	<b>Per week</b>
0-6 months of experience	252.71	270.34	293.85	0-6 months of experience	176.31	193.94	217.44
7-12 months of experience	297.00	310.50	337.50	7-12 months of experience	202.50	222.75	249.75
13-18 months of experience	340.56	356.04	387.00	13-18 months of experience	232.20	255.42	286.38
19-24 months of experience	384.51	401.99	436.95	19-24 months of experience	262.17	288.38	323.34
25+ months of experience	431.24	450.84	490.05	25+ months of experience	294.03	323.43	362.63

**“Category E”** means an employee engaged in any one or more of the following capacities or duties in the clothing and knitting division:

Assist Foreperson / Dyer / Mechanic / Patternmaker / Supervisor.

## **WAGES FOR EMPLOYEES IN THE CLOTHING AND KNITTING DIVISION**

### **BAND KNIFE CUTTER**

<b>IN THE MAGISTERIAL DISTRICT OF HAMMARSDALE, CAMPERDOWN, UMZINTO, PAARL, STELLENBOSCH AND UITENHAGE</b>				<b>IN ALL OTHER AREAS</b>			
	<b>First 12 months</b>	<b>Second 12 months</b>	<b>Third 12 months &amp; thereafter</b>		<b>First 12 months</b>	<b>Second 12 months</b>	<b>Third 12 months &amp; thereafter</b>
	<b>Per week</b>	<b>Per week</b>	<b>Per week</b>		<b>Per week</b>	<b>Per week</b>	<b>Per week</b>
0-6 months of experience	224.07	239.70	260.55	0-6 months of experience	156.33	171.96	192.80
7-12 months of	248.06	265.37	288.45	7-12 months of	173.07	190.37	213.45

Prepared by:

IN THE MAGISTERIAL DISTRICT OF HAMMARSDALE, CAMPERDOWN, UMZINTO, PAARL, STELLENBOSCH AND UITENHAGE				IN ALL OTHER AREAS			
	First 12 months	Second 12 months	Third 12 months & thereafter		First 12 months	Second 12 months	Third 12 months & thereafter
	Per week	Per week	Per week		Per week	Per week	Per week
experience				experience			
13-18 months of experience	270.90	289.80	315.00	13-18 months of experience	189.00	207.90	233.10
19-24 months of experience	296.44	317.12	344.70	19-24 months of experience	206.82	227.50	255.07
25+ months of experience	335.14	358.52	389.70	25+months of experience	233.82	257.20	288.37

“**Band Knife Cutter**” means an employee who cuts out all articles of wearing apparel, linings, trimmings or interlinings with a bandknife;

### WAGES FOR EMPLOYEES IN THE CLOTHING AND KNITTING DIVISION

#### CLERICAL

IN THE MAGISTERIAL DISTRICT OF HAMMARSDALE, CAMPERDOWN, UMZINTO, PAARL, STELLENBOSCH AND UITENHAGE				IN ALL OTHER AREAS			
	First 12 months	Second 12 months	Third 12 months & thereafter		First 12 months	Second 12 months	Third 12 months & thereafter
	Per week	Per week	Per week		Per week	Per week	Per week
0-6 months of experience	231.81	247.98	269.55	0-6 months of experience	161.73	177.90	199.46
7-12 months of experience	261.99	280.27	304.65	7-12 months of experience	182.79	201.06	225.44
13-18 months of experience	286.38	306.36	333.00	13-18 months of experience	199.80	219.78	246.42

Prepared by:

IN THE MAGISTERIAL DISTRICT OF HAMMARSDALE, CAMPERDOWN, UMZINTO, PAARL, STELLENBOSCH AND UITENHAGE				IN ALL OTHER AREAS			
	First 12 months	Second 12 months	Third 12 months & thereafter		First 12 months	Second 12 months	Third 12 months & thereafter
	Per week	Per week	Per week		Per week	Per week	Per week
19-24 months of experience	341.33	365.14	396.90	19-24 months of experience	238.14	261.95	293.70

**“Clerical Employee”** means an employee who is engaged in the following capacities and duties in the clothing and knitting division:

**Capacities:** Cashier / Despatch Clerk / Storeperson / Shipping Clerk / Invoice Clerk / Work Study Clerk / Telephone Switchboard Operator.

**Duties:** writing, typing and filing / operating a calculating machine / computer Terminal / punch card machine or accounting machine / any other clerical work but does not include any other class of employee elsewhere defined, notwithstanding the fact that clerical work may form part of such employee's work.

#### WAGES FOR EMPLOYEES IN THE CLOTHING AND KNITTING DIVISION

IN THE MAGISTERIAL DISTRICT OF HAMMARSDALE, CAMPERDOWN, UMZINTO, PAARL, STELLENBOSCH AND UITENHAGE				IN ALL OTHER AREAS			
	First 12 months	Second 12 months	Third 12 months & thereafter		First 12 months	Second 12 months	Third 12 months & thereafter
	Per week	Per week	Per week		Per week	Per week	Per week
ASSIST HEAD CUTTER	406.73	435.11	472.95	ASSIST HEAD CUTTER	283.77	312.14	349.98
HEAD CUTTER	508.51	543.99	591.30	HEAD CUTTER	354.78	390.25	437.56
FORE- PERSON	390.09	417.31	453.60	FORE- PERSON	272.16	299.37	335.66
WATCH- PERSON	284.44	304.29	330.75	WATCH- PERSON	198.45	218.29	244.75
DRIVER 1 454kg	267.41	286.07	310.95	DRIVER 1 454kg	186.57	205.22	230.10

Prepared by:

IN THE MAGISTERIAL DISTRICT OF HAMMARSDALE, CAMPERDOWN, UMZINTO, PAARL, STELLENBOSCH AND UITENHAGE				IN ALL OTHER AREAS			
	First 12 months	Second 12 months	Third 12 months & thereafter		First 12 months	Second 12 months	Third 12 months & thereafter
	Per week	Per week	Per week		Per week	Per week	Per week
DRIVER 2 454-2722 kg	292.57	312.98	340.20	DRIVER 2 454-2722 kg	204.12	224.53	251.74
DRIVER 3 2722-4540 kg	340.94	364.73	396.45	DRIVER 3 2722-4540 kg	237.86	261.65	293.37
DRIVER 4 4540 kg	412.15	440.91	479.25	DRIVER 4 4540 kg	287.55	316.30	354.64

**WAGES FOR EMPLOYEES IN THE CLOTHING AND KNITTING DIVISION**

**ANY OTHER EMPLOYEES NOT ELSEWHERE SPECIFIED**

IN THE MAGISTERIAL DISTRICT OF HAMMARSDALE, CAMPERDOWN, UMZINTO, PAARL, STELLENBOSCH AND UITENHAGE				IN ALL OTHER AREAS			
	First 12 months	Second 12 months	Third 12 months & thereafter		First 12 months	Second 12 months	Third 12 months & thereafter
	Per week	Per week	Per week		Per week	Per week	Per week
0-6 months of experience	210.52	225.21	244.80	0-6 months of experience	146.88	161.56	181.15
7-12 months of experience	230.65	246.74	268.20	7-12 months of experience	160.92	177.01	198.46
13-18 months of experience	250.00	267.44	290.70	13-18 months of experience	174.42	191.86	215.11
19-24 months of experience	275.15	294.35	319.95	19-24 months of experience	191.97	211.16	236.76

*(Clause 3(1) corrected by Government Notice R423 in Government Gazette 23306, dated 5 April 2002)*

Prepared by:

(2) Basis of contract.—

For the purposes of this clause the contract of employment of an employee, shall be on a weekly basis, and except as provided for in clause 6(4), he or she shall be paid in respect of a week not less than the full weekly wage prescribed in subclause (1), as read with the definition of “wage” in clause 1 and with subclause (3), for an employee of his or her category in the area in which he or she works, whether he or she has in that week worked the maximum number of ordinary hours of work applicable to him or her or less.

(3) Differential wage.— An employer who requires or permits a member of one category of employees to perform work for longer than one hour on any day, either in addition to his or her own work or in substitution therefore, work of another category for which—

- (a) a wage higher than that of his or her own category is set out in subclause (1), shall pay to such employee in respect of that day, not less than the daily wage calculated at the higher rate; or
- (b) a rising scale of wages terminating in a wage higher than that of his or her own category is set out in subclause (1), shall pay to such employee in respect of that day not less than the daily wage calculated on the notch in the rising scale immediately above the wage which the employee was receiving for his or her ordinary work:

Provided that –

- (i) this subclause shall not apply where the difference between categories in terms of subclause (1) is based on experience;
- (ii) unless expressly otherwise provided in a written contract between an employer and an employee, nothing in this determination shall be so construed as to preclude an employer from requiring an employee to perform work of another category for which the same or a lower wage is prescribed.

(4) Calculation of wages.— The hourly, daily or monthly wage of an employee shall be calculated as indicated in the definitions of these expressions in clause 1.

#### **4. PAYMENT OF REMUNERATION**

(1) An employee, except as provided for in clause 13(6) and (7) shall be paid:—

- (a) weekly, fortnightly or monthly;

- (b) in cash, by cheque or by direct deposit into an account designated by the employee, and in South African currency;
- (c) remuneration in cash or by cheque—
  - (i) at the workplace or at a place agreed to by the employee;
  - (ii) during the employee's working hours or within 15 minutes of the commencement or conclusion of such hours;
- (d) remuneration not later than seven days after—
  - (i) the completion of a period for which the remuneration is payable;
  - (ii) the termination of the contract of employment.

## **5. INFORMATION CONCERNING REMUNERATION**

- (1) The remuneration shall be in a sealed envelope which shall become the property of the employee, on which must be recorded or which must be accompanied by, a statement showing—
  - (a) the employer's name and address;
  - (b) the employee's name and occupation;
  - (c) the period in respect of which payment is made;
  - (d) the employee's rate of remuneration and overtime rate;
  - (e) the number of ordinary hours worked by the employee during that period;
  - (f) the number of overtime hours worked by the employee during that period;
  - (g) the number of hours worked by the employee on a paid holiday or on a Sunday;
  - (h) the employee's wage;
  - (i) details of any other remuneration arising out of the employee's employment;
  - (j) details of any deductions made; and
  - (k) the actual amount paid to the employee.

- (2) The particulars set out in subclause (1) may be coded on the envelope and such code shall be fully set out and explained in an accompanying notice or in a notice kept posted in a conspicuous place in the establishment, accessible to all employees affected thereby.
- (3) Where the remuneration is deposited into the employee's account the employer shall hand to him or her the statement referred to in subclause (1).

## **6. DEDUCTIONS AND OTHER MATTERS CONCERNING REMUNERATION**

- (1) Training fee.— Subject to any other law no payment by or on behalf of an employee shall be accepted by an employer, either directly or indirectly, in respect of the employment or training of that employee.
- (2) Purchase of goods.— An employer shall not require his or her employee to purchase any goods from him or her or from any shop, place or person nominated by him or her.
- (3) Accommodation.— Subject to any other law, an employer shall not require his or her employee to accept accommodation, meals or rations from him or her or from any person or at any place nominated by him or her.
- (4) Deductions.— An employer shall not levy any fines against his or her employee nor make any deductions from the employee's remuneration other than the following-
  - (a) With the written consent of the employee, a deduction for any holiday, sick, medical, insurance, savings, provident or pension fund, or in respect of subscriptions to a trade union;
  - (b) A deduction of any amount which an employer by law or order of any competent court is required or permitted to make;
  - (c) Whenever the ordinary hours of work are reduced because of short-time, a deduction not exceeding the amount of the employee's hourly wage in respect of each hour of such reduction: Provided that-
    - (i) such deduction shall not exceed one third of the employee's weekly wage, irrespective of the number of hours by which the ordinary hours of work are thus reduced;
    - (ii) no deduction shall be made in the case of short-time arising from slackness of business or a shortage of raw materials or packing materials unless the employer has given his or her employee notice on the previous work-day of his or her intention to reduce the ordinary hours of work;

- (iii) no deduction shall be made in the case of short time owing to vagaries of the weather or a breakdown of plant or machinery or a breakdown or threatened breakdown of buildings, in respect of the first hour not worked, unless the employer has given his or her employee notice on the previous day that no work will be available;
- (d) with the written consent of an employee, a deduction of any amount which the employer has paid or has undertaken to pay to—
  - (i) any banking institution, building society, insurance business, registered financing institution, local authority in respect of a payment on a loan granted to such employee to acquire a dwelling;
  - (ii) any organisation or body in respect of the rent of a dwelling or accommodation in a hostel occupied by such employee if such dwelling or hostel is provided through the instrumentality of such organisation or body wholly or partly *[sic]* from funds advanced for that purpose by the State or a body referred to in subparagraph (i);
- (e) with the written consent of an employee, a deduction towards the repayment of any amount loaned or advanced to him or her by the employer: Provided that any such deduction shall not exceed one quarter of the total remuneration due to the employee on the pay-day concerned: Provided further that no such deduction shall be made in respect of any period during which the employee's wage is reduced in terms of paragraph (d).

## **7. HOURS OF WORK AND OVERTIME**

- (1) Exclusions –
  - (a) Subclauses (3), (4) (5) and (6) shall not apply to an employee while he or she is engaged on emergency work.
  - (b) Subclause (3) and (4) shall not apply to a watchperson: Provided that if a meal interval is granted to such an employee the time taken up by such interval shall be deemed to be time during which he or she worked;
  - (c) Subclause (4) shall not apply to a driver or an employee who assists such driver on the vehicle;
  - (d) Subclause (3), (4), (5) and (6) shall not apply to an employee who is remunerated according to an agreement under clause 18.
  - (e) Subclause (2), (3), (5) and (6) shall not apply to an employee earning a wage in excess of the remuneration stipulated by the Minister in the determination made in Regulation 1438 published on 13 November 1998 or in any other determination made in substitution thereof.



- (2) Ordinary hours of work.— An employer shall not require or permit an employee to work more ordinary hours of work than:
- (a) 45 in any week from Monday to Saturday, inclusive, and
  - (b) subject to subparagraph (i), in the case of an employee who normally works on—
    - (aa) not more than five days in a week, nine on any day;
    - (ab) more than five days in a week, eight on any day, unless the hours on one day do not exceed five.
- (3) Meal Intervals – An employer shall not require or permit an employee to work for more than five hours continuously without a meal interval of not less than one hour, during which interval such employee shall not be required or permitted to perform any work, and such interval shall not form part of the ordinary hours of work or overtime: Provided that—
- (a) such interval may be reduced to not less than half an hour by written mutual agreement between an employer and an employee;
  - (b) periods of work interrupted by intervals of less than one hour, except when proviso (a) or (e) applies, shall be deemed to be continuous;
  - (c) if such interval is longer than one hour any period in excess of one and one quarter hours shall be deemed to be time worked;
  - (d) only one such interval during the ordinary hours of work of an employee on any day shall not form part of the ordinary hours of work;
  - (e) when on any day by reason of overtime worked an employer is required to give an employee a second meal interval, such interval may be reduced to not less than 15 minutes;
  - (f) a driver who during such interval does not work other than being or remaining in charge of the vehicle or its load shall for the purpose of this subclause be deemed not to have worked during such interval;
  - (g) such interval need to be granted to a shift worker during his or her ordinary hours of work on any shift if he or she is given the opportunity during such hours of having a meal while at his or her post in terms of any law.

- (4) Rest intervals – An employer shall grant to each of his or her employees a rest interval of not less than 10 minutes as nearly as practicable in the middle of each first work period and second work period of the day, and during such interval such employee shall not be required or permitted to perform any work, and such interval shall be deemed to be part of the ordinary hours of work of such employee: Provided that where an employer grants his or her employee a rest interval of not less than 20 minutes during each morning work period, the afternoon rest interval may be dispensed with.

Except as provided for in subclause (3) and (4) all hours of work of an employee on any day shall be consecutive.

(5) Daily and weekly rest periods

(a) An employer must allow an employee–

- (i) a daily rest period of at least twelve consecutive hours between ending and recommencing work; and
- (ii) a weekly rest period of at least 36 consecutive hours which, unless otherwise agreed, must include Sunday.

(b) A daily rest period in terms of subclause 5(a) may, by written agreement be reduced to 10 hours for an employee–

- (i) whose meal interval lasts for at least three hours; or
- (ii) who is a driver of a motor vehicle or an employee assisting on or accompanying a motor vehicle driven over a distance of more than 480 kms in one direction from the point of departure to the destination, if the ordinary hours of work of such a driver or other member of the vehicle staff, together with any overtime worked, do not exceed 14 hours on any day.

(c) Despite subclause (a)(ii), an agreement in writing may provide for–

- (i) rest period of at least 60 consecutive hours every two weeks; or
- (ii) an employee's weekly rest period to be reduced by up to eight hours in any week if the rest period in the following week is extended equivalently.

- (6) Overtime – An employer shall not require or permit an employee to work overtime otherwise than in terms of an agreement concluded by him or her with the employee and such overtime shall not exceed:

- (a) three hours on any day; or
- (b) 10 hours in any week;

Provided that this limitation shall not apply in respect of the employees referred to in subclause (5)(b)(ii).

(7) Payment for overtime—

- (a) An employer shall pay an employee, who works overtime, at a rate of not less than one and a half times his or her hourly wage;

**8. NIGHT WORK**

- (1) Exclusion: This clause shall not apply to an employee earning a wage in excess of the remuneration stipulated by the Minister in the determination made in Regulation 1438 published on 13 November 1998 or in any other determination in substitution thereof.
- (2) An employer may only require or permit an employee to perform night work, if so agreed and if—
  - (a) the employee is entitled to and shall receive payment of an allowance, which may be a shift allowance, or by a reduction of working hours; and
  - (b) transportation is available between the employee's place of residence and the workplace at the commencement and conclusion of the employee's shift.
- (3) An employer who requires an employee to perform work on a regular basis after 23:00 and before 06:00 the next day must—
  - (a) inform the employee in writing, or orally if the employee is not able to understand a written communication, in a language that the employee understands—
    - (i) of any health and safety hazards associated with the work that the employee is required to perform; and
    - (ii) of the employee's right to undergo a medical examination in terms of paragraph (b);
  - (b) at the request of the employee, enable the employee to undergo a medical examination, for the account of the employer, concerning those hazards—
    - (i) before the employee starts, or within a reasonable period of the employees starting, such work, and

- (ii) at appropriate intervals while the employee continues to perform such work; and
  - (iii) transfer the employee to suitable day work within a reasonable time if -
  - (iv) the employee suffers from a health condition associated with the performance of night work; and
  - (v) it is practicable for the employer to do so.
- (4) For the purposes of subclause (3), an employee works on a regular basis if the employee works for a period of longer than one hour after 23:00 and before 06:00 at least five times per month or 50 times per year.

## **9. COMPRESSED WORKING WEEK**

- (1) Exclusion: This clause shall not apply to an employee earning an annual wage in excess of the remuneration stipulated by the Minister in the determination made in Regulation 1438 published on 13 November 1998 or in any other determination in substitution thereof.
- (2) An agreement in writing between an employer and an employee may require or permit the latter to work up to twelve hours in a day, inclusive of the meal intervals required in terms of clause 7(3), without receiving overtime pay.
- (3) An agreement in terms of subclause (2) may not require or permit an employee to work—
- (a) more than 45 ordinary hours of work in any week;
  - (b) more than ten hours' overtime in any week; or
  - (c) on more than five days in any week.

## **10. AVERAGING OF HOURS OF WORK**

- (1) Exclusion: This clause shall not apply to an employee earning a wage in excess of the remuneration stipulated by the Minister in the determination made in Regulation 1438 published on 13 November 1998 or in any other determination in substitution thereof.
- (2) Despite clause 7(2) and clause 7(7), the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months in terms of a collective agreement.

- (3) An employer may not require or permit an employee who is bound by a collective agreement in terms of subclause (2) to work more than—
  - (a) an average of 45 ordinary hours of work in a week over the agreed period;
  - (b) an average of five hours' overtime in a week over the agreed period;
- (4) a *[sic]* collective agreement in terms of subclause (2) lapses after 12 months.
- (5) Subclause (4) only applies to the first two collective agreements concluded in terms of subclause (2).

## **11. PAYMENT FOR WORK ON A SUNDAY**

- (1) Exclusion: This clause shall not apply to an employee earning a wage in excess of the remuneration stipulated by the Minister in the determination made in Regulation 1438 published on 13 November 1998 or in any other determination in substitution thereof.
- (2) An employer must pay an employee who works on a Sunday at double the employee's wage for each hour worked, unless the employee ordinarily works on a Sunday, in which case the employer must pay the employee at one and one-half times the employee's wage for each hour worked.
- (3) If an employee works less than the employee's ordinary shift on a Sunday and the payment that the employee is entitled to in terms of subclause (2) is less than the employee's ordinary daily wage, the employer must pay the employee the employee's ordinary daily wage.
- (4) Despite subclause (2) and (3), an agreement may permit an employer to grant an employee who works on a Sunday paid time off equivalent to the difference in value between the pay received by the employee for working on the Sunday and the pay that the employee is entitled to in terms of subclause (2) and (3).
- (5) Any time worked on a Sunday by an employee who does not ordinarily work on a Sunday is not taken into account in calculating an employee's ordinary hours of work in terms of clause 7, but is taken into account in calculating the overtime worked by the employee in terms of clause 7(6), *[sic]*
- (6) If a shift worked by an employee falls on a Sunday and another day, the whole shift is deemed to have been worked on the Sunday, unless the greater portion of the shift was worked on the other day, in which case the whole shift is deemed to have been worked on the other day.
- (7) An employer must grant paid time off in terms of subclause (4) within one month of the employee becoming entitled to it.
- (8) An agreement in writing may increase the period contemplated by subclause (7) to 12 months.

## 12. PUBLIC HOLIDAYS

- (1) Exclusion: Subclause (4) shall not apply to an employee earning a wage in excess of the remuneration stipulated by the Minister in the determination made in Regulation 1438 published on 13 November 1998 or in any other determination in substitution thereof.
- (2) An employer may not require an employee to work on a public holiday except in accordance with an agreement.
- (3) If a public holiday falls on a day on which an employee would ordinarily work, an employer must pay—
  - (a) an employee who does not work on the public holiday, at least the wage that the employee would ordinarily have received for work on that day;
  - (b) an employee who does work on the public holiday—
    - (i) at least double the amount referred to in paragraph (a); or
    - (ii) if it is greater, the amount referred to in paragraph (a) plus the amount earned by the employee for the time worked on that day.
- (4) If an employee works on a public holiday on which the employee would not ordinarily work, the employer must pay that employee an amount equal to—
  - (a) the employee's ordinary daily wage; plus
  - (b) the amount earned by the employee for the work performed that day, whether calculated by reference to time worked or any other method.
- (5) An employer must pay an employee for a public holiday on the employee's usual pay day.
- (6) If a shift worked by an employee falls on a public holiday and another day, the whole shift is deemed to have been worked on the public holiday, but if the greater portion of the shift was worked on the other day, the whole shift is deemed to have been worked on the other day.

## 13. ANNUAL LEAVE

- (1) In this clause "annual leave cycle" means the period of 12 months employment with the same employer following—
  - (a) the employee's commencement of work; or

- (b) the completion of that employee's prior leave cycle.
- (2) Subject to subclause (4), an employer shall grant to an employee, and the employee shall take, in respect of an annual leave cycle, leave as follows—
- (a) a watchperson whose ordinary hours of work—
    - (i) exceeds 48 in a week and who normally works on—
      - (aa) not more than five days in a week, 20 consecutive work-days;
      - (bb) more than five days in a week, 24 consecutive work-days;
    - (ii) do not exceed 48 in a week and who normally works on—
      - (aa) not more than five days in a week, 15 consecutive work-days;
      - (bb) more than five days in a week, 18 consecutive work-days;
  - (b) any other class of employee who normally works-on—
    - (i) not more than five days in a week, 15 consecutive work-days;
    - (ii) more than five days in a week, 18 consecutive work-days;
  - (c) an employee who works on an hourly or a daily basis, one hour for every 17 hours worked; Provided that an employee who normally works on—
    - (i) not more than five days in a week, one day for every 153 hours or 17 days worked;
    - (ii) more than five days in a week, one day for every 136 hours or 17 days worked.
- Provided that an employee who before this determination became binding had been entitled to a longer period of annual leave than that prescribed in this subclause, shall retain the right to such leave while employed by the same employer;
- (3) The employer shall pay an employee in respect of the leave mentioned in subclause (1), in the case of an employee referred to in—
- (a) subclause (2)(a)(i), an amount of not less than four times;

- (b) subclause (2)(a)(ii) or (2)(b), an amount of not less than three times,
- (c) subclause (2)(c), an amount proportional to

the weekly wage which the employee was receiving immediately prior to the date on which the leave commenced.

- (4) The leave mentioned in subclause (2) shall be granted and be taken, as the case may be, at a time to be fixed by the employer: Provided that—
  - (a) if such leave has not been granted and taken earlier, it shall be granted and be taken so as to commence within six months after the completion of the 12 months of employment to which it relates;
  - (b) the period of leave shall not be concurrent with any period—
    - (i) of sick leave in terms of clause 14(2) or with absence from work owing to incapacity in the circumstances set out in clause 14(7)(b) or (c), amounting in the aggregate in any period of 12 months to not more than 15 weeks;
    - (ii) during which the employee is under notice of termination of employment in terms clause 21, or
  - (c) an employer may set off against such period of leave any days of occasional leave granted up to a maximum of 7 days per annum on full pay to his employee at such employee's written request during the period of employment to which the annual leave relates;
  - (d) when an employer requires an employee to take leave before the expiration of the 12 months of employment to which such leave relates, the employer shall grant such employee the full period of leave accruable for 12 months of employment and, with due regard to the accrual of any increments in terms of clause 3, shall pay such employee in respect of such leave an amount of not less than that which the employee would have been entitled to at the date on which the leave would normally have accrued.
  - (e) If the employment of an employee referred to in paragraph (d) terminates before the expiration of 12 months in respect of which leave was granted in terms of that paragraph, the employer may set off the difference between the amount paid to the employee and the amount to which the employee would have been entitled in terms of subclause (7) had leave not been granted to him or her against the remuneration due to such an employee at the termination of the contract.



- (5) The remuneration in respect of the leave mentioned in subclause (2), shall be paid not later than the last work-day before the date of commencement of the leave or, at the written request of the employee, not later than the first pay-day after the expiration of the leave.
- (6) An employee whose employment terminates during an incomplete leave cycle and who has been in employment for longer than 4 months shall, upon such termination and in addition to any other remuneration which may be due to him or her, be paid one day's remuneration in respect of every 17 days on which he or she worked or was entitled to be paid; Provided that an employer may make a proportionate deduction in respect of any period of leave granted to an employee in terms of proviso (c) to subclause (4).
- (7) An employee who has become entitled to the period of leave mentioned in subclause (2), read with subclauses (4)(c) and whose employment terminates before such leave has been granted and been taken, shall and with due regard to subclause (9), upon such termination be paid the amount he or she would have received in respect of the leave had the leave been granted to and taken by him or her as at the date of the termination.
- (8) For the purposes of this clause—
  - (a) the weekly wage at any date of an employee who is engaged in piecework or commission work shall be his or her average weekly remuneration for the preceding 13 weeks or, if a lesser period has been worked, for the number of completed weeks so worked;
  - (b) “employment” and “period of employment” shall be deemed to include—
    - (i) any period in respect of which an employer pays an employee in lieu of notice in terms of clause 21;
    - (ii) any period amounting in the aggregate in any period of 12 months, to not more than 15 weeks during which an employee is absent—
      - (aa) on leave in terms of this clause;
      - (bb) on sick leave in terms of clause 14(2) or owing to incapacity in the circumstances set out in clause 14(8)(b) or (c);
      - (cc) at the instance of his or her employer;
      - (dd) with the consent or condonation of his or her employer;
      - (ee) for any other reason that is not in breach of the contract of employment.

- (iii) previous employment with the same employer if the break in employment is less than one year.

(c) employment shall be deemed to commence—

- (i) in the case of an employee who, before this determination become binding, had become entitled to a period of annual leave in terms of any law, on the date on which he or she last became entitled to leave under that law;
- (ii) in the case of an employee who was in employment before this determination became binding and to whom any law providing for annual leave applied but who had not yet become entitled to a period of leave in terms thereof, on the date on which such employment commenced;
- (iii) in the case of any other employee, on the date on which such employee entered the employer's service or the date on which this determination became binding, whichever is the later;

(9)

- (a) Despite anything to the contrary contained in this clause, an employer may for the purposes of annual leave, at any time, but not more than once in any period of 12 months, close his or her establishment for 14 consecutive days or suspend an activity for 14 consecutive days and in that case he or she shall remunerate his or her employee in terms of subclause (2) or in terms of paragraph (c) hereof, as the case may be.
- (b) Whenever a paid holiday falls on a day which otherwise would be a work day for an employee and such paid holiday falls within the closed or suspension period referred to in paragraph, (a), another work day shall be added to the said closed or suspension period as a further period of leave and the employee shall be paid an amount of not less than his or her daily wage in respect of each such day added.
- (c) An employee who, at the date on which an establishment or activity in which he or she is employed is closed or suspended, is not entitled to the full period of annual leave mentioned in subclause (2) shall, in respect of any leave due to him, be paid by his or her employer on the basis set out in subclause (7), and for the purposes of annual leave thereafter his or her employment shall be deemed to commence on the date of such closing of the establishment or suspension of the activity.

- (10) An employer may not pay an employee instead of granting paid leave in terms of this clause, except upon termination of employment and in accordance with subclauses (6) and (7).

## 14. SICK LEAVE

Prepared by:

- (1) For purposes of this clause “sick leave cycle” means the period of 36 months employment with the same employer immediately following—
  - (a) an employee’s commencement of employment; or
  - (b) the completion of that employee’s prior sick leave cycle.
- (2) An employee is entitled to an amount of paid sick leave, during every sick leave cycle, equal to the number of days the employee would normally work during a period of six weeks.
- (3) Despite subclause (2) during the first six months of employment, an employee is entitled to one day’s sick leave for every 26 days worked.
- (4) An employer may, during the employee’s first leave cycle, reduce the employee’s entitlement to sick leave in terms of subclause (2) by the number of days’ sick leave taken in terms of subclause (3).
- (5) If during the a sick leave cycle an employee is absent due to incapacity for longer than the number of days sick leave to which he or she is entitled in terms of subclause (2) the employer shall not be required to pay the employee for the excess sick leave taken.
- (6) Where an employer in terms of any law pays fees for hospital or medical treatment in respect of an employee, the fees so paid may be set off against the payment of sick leave.
- (7) Payment for any period of absence on sick leave to an employee who is employed on piecework or commission work shall be at the rate of not less than the employee’s average remuneration for the last 13 weeks before the start of the sick leave or if a shorter period has been worked, for the number of completed weeks so worked.
- (8) Limitation

An employer is not required to pay sick leave to an employee in terms of this clause—

- (a) If the employee has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and the employee fails to produce a medical certificate stating the nature and duration of his or her incapacity, after having been requested to do so by the employer.

The medical certificate referred to in this subclause must be issued by a medical practitioner or any other person who is certified to diagnose and treat patients and is registered with a professional council established by an Act of Parliament.

- (b) If the employer, at the written request of an employee, makes a contribution that is at least equal to that made by the employee, to any fund or organisation nominated by the employee which in the event of the employee's incapacity in the circumstances set out in this clause would ensure the payment to the employee of an amount not less than the equivalent of his or her wage for any period of such leave in terms of subclause (2).
- (c) for any period of incapacity of an employee in respect of which the employer is required by any law to pay to the employee not less than his or her full wage.

#### Application to occupational accident or diseases

- (9) This clause shall not apply to inability to work caused by an accident or occupational disease as defined in the Compensation for Occupational Injuries and Diseases Act, 1993 (Act 130 of 1993), except in respect of any period during which no compensation is payable in terms of that Act.

### **15. MATERNITY LEAVE**

- (1) An employee is entitled to at least four consecutive months' maternity leave.
- (2) An employee may commence maternity leave—
  - (a) at any time from four weeks before the expected date of birth, unless otherwise agreed; or
  - (b) on a date from which a medical practitioner or a midwife certifies that it is necessary for the employee's health or that of her unborn child.
- (3) No employee may work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.
- (4) An employee who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not the employee had commenced maternity leave at the time of the miscarriage or stillbirth.
- (5) An employee must notify an employer in writing, unless the employee is unable to do so, of the date on which the employee intends to—
  - (a) commence maternity leave; and
  - (b) return to work after maternity leave.
- (6) Notification in terms of subclause (5) must be given—

- (a) at least four weeks before the employee intends to commence maternity leave;
  - (b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.
- (7) Protection of employees before and after birth of a child—
- (a) No employer may require or permit a pregnant employee or an employee who is nursing her child to perform work that is hazardous to her health or the health of her child.
  - (b) During an employee's pregnancy, and for a period of six months after the birth of her child, her employer must offer her suitable, alternative employment on terms and conditions that are no less favourable than her ordinary terms and conditions of employment, if—
    - (i) the employee is required to perform night work, as defined in clause 8 or her work poses a danger to her health or safety or that of her child; and
    - (ii) it is practicable for the employer to do so.

## **16. FAMILY RESPONSIBILITY LEAVE**

- (1) This clause applies to an employee—
- (a) who has been in employment with an employer for longer than four months; and
  - (b) who works for at least four days a week for that employer.
- (2) An employer must grant an employee, during each annual leave cycle, at the request of the employee, three days' paid leave, which the employee is entitled to take—
- (a) When the employee's child is born;
  - (b) when the employee's child is sick; or
  - (c) in the event of the death of—
    - (i) the employee's spouse or life partner; or
    - (ii) the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.
- (3) Subject to subclause (5), an employer must pay an employee for a day's family responsibility leave—

- (a) the wage the employee would ordinarily have received for work on that day; and
  - (b) on the employee's usual payday.
- (4) An employee may take family responsibility leave in respect of the whole or a part of a day.
  - (5) Before paying an employee for leave in terms of this section, an employer may require reasonable proof of an event contemplated in subclause (2) for which the leave was required.
  - (6) An employee's unused entitlement to leave in terms of this clause lapses at the end of the annual leave cycle in which it accrues.

## **17. PIECE-WORK**

- (1) An employer may when engaging an employee or after at least one week's notice if the employee is already in his or her employ, introduce any piece-work system and, except as provided for in clause 6(4), such employer shall pay the employee who is employed on such piece-work system remuneration at not less than the wage mentioned in clause 3(1) for an employee of his or her category and experience, plus the rates applicable under such system:
- (2) An employer shall keep posted up in a conspicuous place in his or her establishment a schedule reflecting the rates referred to in subclause (1) or he or she may in lieu thereof supply every employee engaged on piece-work with a letter signed by himself/herself, or on his or her behalf, setting out the said rates.
- (3) An employer shall not require or permit an employee to undertake any work for him or her solely on piece-work basis and any amount payable to an employee in terms of subclause (1) shall be aside from and in addition to his or her wage, which shall not be less than the wage mentioned in clause 3(1) for an employee of his or her category and experience.
- (4) An employer who intends to cancel or amend any piecework system in operation, or the rates applicable thereunder shall give an employee not less than one month's notice of such intention: Provided that an employer and an employee may agree on a longer period of notice, in which case the employer shall give notice for a period not shorter than that agreed upon.

## **18. COMMISSION WORK**

- (1) An employee who by agreement with an employer undertakes commission work on a regular basis shall be supplied by the employer, before such work is commenced, with a true copy of the agreement or a statement setting out the terms of the agreement, which shall include—

- (a) the wage payable to the employee, which shall not be less than the wage mentioned in clause 3(1) for an employee of his or her category and experience, the rate of the commission and the conditions of entitlement thereto;
  - (b) the day of the week or month on which commission earned is due and payable;
  - (c) the type, description, number, quantity or value of sales or orders (individual, weekly, monthly or otherwise) which the employer is from time to time prepared to accept.
  - (d) the day of payment of commission earned by the employee before termination of the contract of employment: Provided that such day of payment shall be no later than the last work-day of the month succeeding the month during which employment was terminated; and
  - (e) where applicable, the area in which the employee is required or permitted to work.
- (2) Except as provided for in clause 6(4), an employer shall pay an employee at not less than the wage and rate of commission agreed upon between them.
- (3) The employee's wage and commission shall be paid on the day stipulated in the agreement referred to in subclause (1), and the provisions of clause 4(1) shall not apply in respect of such payment;
- (4) An employer shall not require or permit an employee to undertake any work for him or her on the basis of commission only and any amount payable to an employee as commission under an agreement entered into in terms of subclause (1) shall be aside from and in addition to the wage stipulated therein.
- (5) An employer or an employee who intends to cancel or to negotiate for an alteration of an agreement in regard to commission work shall give written notice of such intention, and the period of such notice shall not be less than nor run concurrently with that required to terminate the contract of employment of such employee in terms of clause 20.

## **19. PROHIBITION OF EMPLOYMENT**

- (1) An employer shall not—
- (a) employ any person under the age of 15 years; or
  - (b) a child who is under the minimum school leaving age in terms of any law, if he or she is 15 years or older;
- (2) An employer shall not employ a child in employment—

- (a) that is inappropriate for a person of that age;
  - (b) that places at risk the child's wellbeing, education, physical or mental health or spiritual, moral or social development.
- (3) All forced labour is prohibited.

## **20. TERMINATION OF CONTRACT OF EMPLOYMENT**

- (1) Despite clause 3(2), an employer or an employee who desires to terminate the contract of employment, shall give—
- (a) during the first four weeks of employment, not less than one week's notice;
  - (b) after the first four weeks but not more than one year of employment, not less than two weeks' notice of termination of contract;
  - (c) After one year of employment not less than four weeks' notice.
- (2) The notice of termination of a contract of employment must be given in writing except when it is given by an employee who is not able to write.
- (3) Where a notice of termination is given to an employee who is unable to read and understand it, the employer must arrange that the notice is explained to the employee in a language that the employee reasonably understands.
- (4) An employer or an employee may terminate the contract of employment without notice by paying the employee or paying the employer, as the case may be, in lieu of such notice not less than in the case of—
- (a) one week's notice, the weekly wage the employee is receiving at the time of such termination;
  - (b) two weeks' notice, the wages the employee is entitled to in the two weeks.
  - (c) four weeks' notice, the wages the employee is entitled to in the four weeks

Provided that this shall not affect—

- (i) the right of an employer or an employee to terminate the contract without notice for any cause recognised by law as sufficient;



- (ii) any collective agreement which provides for a period of notice of equal duration on both sides shorter than that provided for in this clause;
  - (iii) the right of a dismissed employee to dispute the lawfulness or fairness of the dismissal in terms of the Labour Relations Act, 1995 or any other law.
- (5) Where there is an agreement in terms of proviso (ii) to subclause (4), the payment in lieu of notice shall be commensurate with the period of notice agreed upon.
- (6) The notice referred to in subclause (1) shall be given on a work-day:

Provided that the period of notice shall not run concurrently with nor shall notice be given during an employee's absence—

- (a) on leave in terms of clause 13;
- (b) on sick leave in terms of clause 14(2);
- (c) owing to incapacity in the circumstances set out in clause 14(8)(b) or (c), amounting in the aggregate to not more than 15 weeks in a period of 12 months;
- (d) on maternity leave in terms of clause 15.

## **21. SEVERANCE PAY**

- (1) For the purposes of this section, operational requirements' means requirements based on the economic, technological, structural or similar needs of any employer.
- (2) An employer must pay an employee who is dismissed for reasons based on the employer's operational requirements severance pay equal to at least one week's remuneration for each completed year of continuous service with that employer, calculated in accordance with clause 3.
- (3) An employee who unreasonably refuses to accept the employer's offer of alternative employment with that employer or any other employer, is not entitled to severance pay in terms of subclause (2).
- (4) The payment of severance pay in compliance with this section does not affect an employee's right to any other amount payable according to law.
- (5) If there is a dispute only about the entitlement to severance pay in terms of this clause, the employee may refer the dispute in writing to the CCMA.

## **22. CERTIFICATE OF SERVICE**

Prepared by:

- (1) On termination of employment an employee is entitled to a certificate of service stating—
  - (a) the employee's full name;
  - (b) the name and address of the employer;
  - (c) a description of any council or sectoral employment standard by which the employer's business is covered;
  - (d) the date of commencement and date of termination of employment;
  - (e) the title of the job or a brief description of the work for which the employee was employed at date of termination;
  - (f) the remuneration at date of termination; and
  - (g) if the employee so requests, the reason for termination of employment.

### **23. UNIFORMS, OVERALLS AND PROTECTIVE CLOTHING**

- (1) An employer shall supply, free of charge, any uniform, overall, gumboots, cap or other protective clothing which he or she is required by any law to provide to an employee or which the employee is required by any law to wear.
- (2) An employer to whom subclause (1) does not apply but nevertheless, explicitly or implicitly, requires an employee to wear any such protective clothing shall supply it free of charge.
- (3) Any such protective clothing which has been provided to an employee free of charge shall remain the property of the employer.

### **24. ATTENDANCE REGISTER**

- (1) Exclusion: This clause shall not apply to a driver of a motor vehicle or an employee accompanying such a driver or to an employee earning a wage in excess of the remuneration stipulated by the Minister in the determination made in Regulation 1438 published on 13 November 1998 or in any other determination in substitution thereof.
- (2) An employer shall provide in his or her establishment an attendance register substantially in the form of annexure "B" in which he or she shall record in ink or indelible pencil the name and class of each of his or her employees, and if such employee is unable to write his or her employer shall on his or her behalf for each day worked and for that day make the necessary entries in respect of items (i) to (iv)

inclusive of subclause (4)(a), and sign such entries in the presence of a person nominated by the employee.

(3) An employer may, instead of an attendance register provide a semi-automatic time recorder together with the necessary cards, which shall be as nearly as practicable in the form of annexure “C”, and supply to each employee such a card indicating the name or number of the employee and the date of termination of the week in respect of which it is to be used.

(4) Unless prevented from doing so by unavoidable circumstances, an employee shall in respect of each day worked by him or her and on that day—

(a) record in ink or indelible pencil in the attendance register referred to in subclause (2);—

(i) the day of the week;

(ii) the time he or she commenced work;

(iii) the time of commencement and termination of all meal or other intervals which are not reckonable as ordinary hours of work;

(iv) the time of finishing work *[sic]* the day;

(v) the time of commencement and termination of overtime worked for the day;

(vi) the total number of hours worked for the day; and

(vii) his or her signature;

(b) in an establishment where a semi-automatic time recorder is provided, make an entry by means of such recorder on a card supplied in terms of subclause (3) to show the following:

(i) the time he or she commenced work;

(ii) the time of commencement and termination of all meal or other intervals which are not reckonable as ordinary hours of work; and

(iii) the time of finishing work for the day.

(5) An employer shall retain the attendance register referred to in subclause (3), as the case may be, for a period of not less than three years after the date of the last entry therein or thereon.

## 25. WRITTEN PARTICULARS OF EMPLOYMENT

Prepared by:

- (1) An employer must supply an employee, when the employee commences employment, with the following particulars in writing—
- (a) the full name and address of the employer;
  - (b) the name and occupation of the employee, or a brief description of the work for which the employee is employed;
  - (c) the place of work, and, where the employee is required or permitted to work at various places, an indication of this;
  - (d) the date of employment;
  - (e) the employee's ordinary hours of work and days of work;
  - (f) the employee's wage or the rate and method of calculating wages;
  - (g) the rate of pay for overtime work;
  - (h) any other cash payments that the employee is entitled to;
  - (i) any payment in kind that the employee is entitled to and the value of the payment in kind;
  - (j) how frequently remuneration will be paid;
  - (k) any deductions to be made from the employee's remuneration;
  - (l) the leave to which the employee is entitled;
  - (m) the period of notice required to terminate employment, or if employment is for a specified period, the date when employment is to terminate;
  - (n) a description of any council or sectoral determination which covers the employer's business;
  - (o) any period of employment with a previous employer that counts towards the employee's period of employment;
  - (p) a list of any other documents that form part of the contract of employment, indicating a place that is reasonably accessible to the employee where a copy of each may be obtained.
- (2) When any matter listed in subclause (1) changes—

- (a) the written particulars must be revised to reflect the change; and
  - (b) the employee must be supplied with a copy of the document reflecting the change.
- (3) If an employee is not able to understand the written particulars, the employer must ensure that they are explained to the employee in a language and in a manner that the employee understands.
- (4) The employer must keep written particulars in terms of this clause for a period of 12 months after the termination of employment.

## **26. LOG BOOK**

- (1) An employer shall provide his or her driver with a log-book as nearly as practicable in the form of annexure "D".
- (2) Every driver shall, in the log-book referred to in subclause (1), keep a daily log in duplicate in respect of each day's work and shall within 24 hours of the completion of the work to which it relates deliver a copy thereof to his employer and the employer shall retain such copy for a period of at least three years subsequent to such delivery.

## **27. KEEPING OF SECTORAL DETERMINATION**

- (1) Every employer on whom this sectoral determination is binding must—
- (a) keep a copy of the sectoral determination available in the workplace at all times;
  - (b) make the copy available for inspection by an employee; and
  - (c) give a copy of the sectoral determination—
    - (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 or a member of a workplace forum.

**(All the provisions of Wage Determination 471: Clothing and Knitting Industry, Republic of South Africa published under Government Notice R934 of 3 May 1991 and all the subsequent amendments will be superseded by this determination with effect from the date of implementation.)**

**ANNEXURE "A"****CLOTHING AND KNITTING SECTOR****CERTIFICATE OF SERVICE****READ THIS FIRST****WHAT IS THE PURPOSE OF THIS FORM?**

This form is proof of employment  
With an employer.

**WHO FILLS IN THIS FORM?**

The employer.

**WHERE DOES THIS FORM GO?**

To the employee.

**INSTRUCTIONS**

This form may be issued upon termination of employment.

**NOTE**

In terms of section 42(g) the reason for termination of employment must only be given if requested by the employee.

This is only a model and not a prescribed form. Completing a document in another format containing the same information is sufficient compliance with the regulation.

1.....

(name and designation of person)

of

(full name of employer)

address: .....

in the.....(trade)

declare that

(full name of employee)

(I.D. no.)

was in employment

from.....until.....

as

(type of work/occupation)

any other information.....

On termination of service this employee

was earning: R.....

.....(amount in words)

☐ per hour ☐ per day ☐ per week

☐ per fortnight ☐ per month ☐ per year

.....  
Employer's signature

.....  
Date

[illegible][illegible]



<p>No person may make a false entry in a record maintained in terms of subsection (1);</p>	<p>• An employer who keeps a record in terms of this section is not required to keep any other record of time worked and remuneration paid as required by any other employment law [section 31(4)].</p>
	<p><b>NOTE</b></p> <p>Whenever an employee has in terms of section 16 of the Act required or permitted an employee to perform work on a Sunday and grants the employee a day off in the next succeeding week (in terms of section 16(3), the day off or day's leave must be clearly indicated in the date column on the day concerned.</p>
	<p><i>This is only a model and not a prescribed form. Completing a document in another format e.g. electronic clock card, containing the same information is sufficient compliance with the regulation.</i></p>



**ANNEXURE C**

**No**  
**week ended**                      **Automatic Time Recorder**

Day	In	Out	In	Out	Total
Sunday					
Monday					
Tuesday					
Wednesday					
Thursday					
Friday					
Saturday					

Prepared by:

# **ANNEXURE "D"**

## **CLOTHING AND KNITTING SECTOR**

## **DAILY LOG**

### **READ THIS FIRST**



### **WHAT IS THE PURPOSE OF THIS FORM?**

This form is a record of  
each days work.

### **WHO FILLS IN THIS FORM?**

The employee.

### **WHERE DOES THIS FORM GO?**

To the employer.

### **INSTRUCTIONS**

The driver must deliver a copy of this  
form to the employer within 24 hours of  
the completion of the work to which the  
form relates

### **NOTE**

The employer must keep this form for a  
period of three years from the date of its  
delivery to him.

This is only a model and not a prescribed  
form. Completing a document in another  
format containing the same information is  
sufficient compliance with clause 27.

Name of employer.....

Name of driver.....

Date.....

Registration number of vehicle.....

Time of starting work.....

Time of finishing work.....

Number of hours worked.....

Meal interval from.....to.....

Particulars of any accident or delay.....

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Name(s) of employee(s) accompanying driver

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Signature of driver

Date