

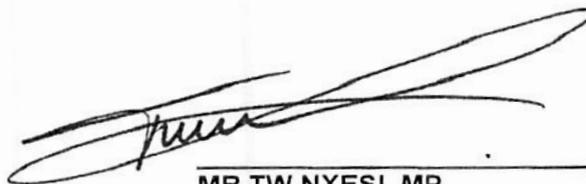
DEPARTMENT OF EMPLOYMENT AND LABOUR

NO. R. 2090

20 May 2022

**NATIONAL BARGAINING COUNCIL OF THE LEATHER INDUSTRY OF SOUTH AFRICA:
EXTENSION TO NON-PARTIES OF THE AGENCY SHOP AMENDING COLLECTIVE
AGREEMENT FOR EMPLOYEES**

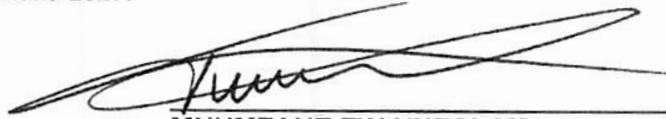
I, **THEMBELANI WALTERMADE NXESI**, Minister of Employment and Labour, hereby in terms of section 32(2) of the Labour Relations Act, 1995, declare that the Collective Agreement which appears in the Schedule hereto, which was concluded in the **National Bargaining Council of the Leather Industry of South Africa**, and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the Agreement, shall be binding on the other employers and employees in that Industry with effect from the second Monday after the date of publication of this notice and for the period ending 30 June 2027.



MR TW NXESI, MP
MINISTER OF EMPLOYMENT AND LABOUR
DATE: 02/02/2022

UMNYANGO WEZEMISEBENZI NEZABASEBENZI**UMTHETHO WOBUDLELWANO KWEZABASEBENZI KA 1995****UMKHANDLU KAZWELONKE WOKUXOXISANA PHAKATHI KWABAQASHI NABASEBENZI
BEMBONI YEZIKHUMBA: UKWELULWA KWESIVUMELWANO SABAQASHI NABASEBENZI
SEGATSHA ELIPHATHELENE NENTELA YABASEBENZI ESICHIBIYELAYO, SELULELWA
KULABO ABANGEYONA INGXYENYE YESIVUMELWANO**

Mina, **THEMBELANI WALTERMADE NXESI**, onguNgqongqoshe Wezemisebenzi NezabaSebenzi, ngokwesigaba-32(2) soMthetho Wobudlelwano KwezabaSebenzi ka-1995, ngazisa ukuthi isiVumelwano sabaqashi nabasebenzi esitholakala kwiSheduli yesiNgisi exhunywe lapha, esenziwa kuMkhandlu KaZwelonke Wokuxoxisana phakathi kwabaQashi Nabasebenzi Embonini Yezikhumba, futhi ngokwesigaba 31 soMthetho Wobudlelwano kwezabaSebenzi, ka 1995 esibopha labo abasenzayo, sizobopha bonke abanye abaqashi nabasebenzi kuleyoMboni, kusukela ngoMsombuluko wesibili emva kosuku lokushicilelwa kwalesiSaziso kuze kube isikhathi esiphela mhlaka 30 kuNhlanguvana 2027.



MNUMZANE TW NXESI, MP
UNGQONGQOSHE WEZEMISEBENZI EZABASEBENZI
USUKU: 02/02/2022

SCHEDULE**NATIONAL BARGAINING COUNCIL OF THE LEATHER INDUSTRY OF SOUTH
AFRICA
AGENCY SHOP COLLECTIVE AGREEMENT FOR EMPLOYEES**

in accordance with the provisions of the Labour Relations Act, No.66 of 1995, made and entered into by and between the:

- a) Southern African Footwear and Leather Industries Association (SAFLIA)**
- b) South African Tanning Employers Organisation (SATEO);**
- c) Association of South African Manufacturers of Luggage, Handbags and General Goods;**

(Hereinafter referred to as the "employers" or the "employer organisations" on the one part), and

- d) National Union of Leather & Allied Workers (N.U.L.A.W)**

and

- e) Southern African Clothing and Textile Workers Union**

(Hereinafter referred to as the "employees" or the "trade unions" of the other part.

being parties to the National Bargaining Council of the Leather Industry of South Africa, to amend the Agreement published under Government Notice No. 909 of 24 November 2017 and R.1484 of 15 November 2019.

1. CLAUSE 1: SCOPE OF APPLICATION OF AGREEMENT

- (1) The terms of this Agreement shall be observed in the Leather Industry -
 - (a) by all employers who are members of the employers' organisations and by the party trade unions in the Leather Industry, respectively;
 - (b) in the Republic of South Africa.
- (2) The terms of this Agreement will apply only to employees for whom wages are prescribed in any of the Main Collective Agreements of the Council.
- (3) The terms of this Agreement shall not apply to non-parties in respect of Clauses 1(1)(a) and 2(1).

2. CLAUSE 2: DATE AND PERIOD OF OPERATION

- (1) This Agreement will come into operation for the parties on 25 August 2021 and remain in force for the period ending 30 June 2027.
- (2) This Agreement will come into operation for non-parties on such date as the Minister of Labour extends the agreement to them, and will thereafter remain in force for the period ending 30 June 2027.

3. CLAUSE 8: DISPUTE RESOLUTION

Substitute the following for Clause 8

- (1) The Secretary of the Council may at any time require a Designated Agent to monitor compliance with the provisions of this Agreement.
- (2) Any person may lodge a complaint or refer a dispute about the interpretation, application or enforcement of this Agreement to the Secretary of the Council for resolution in terms of this Agreement.

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- (3) The Secretary of the Council may require a designated agent to investigate the complaint or dispute.
- (4) The designated agent shall investigate the facts surrounding the dispute and if the agent has reason to believe that a collective agreement has been breached, the agent may endeavour to secure compliance with the agreement through conciliation.
- (5) The designated agent must submit a written report to the Secretary on the investigation, the steps taken to secure compliance and the outcome of those steps.
- (6) If in the course of performing a designated agent's duties, an agent discovers what appears to be a breach of the Agreement, the agent:
 - (a) may investigate the alleged breach;
 - (b) may endeavour to secure compliance with the Agreement; and
 - (c) must submit a report to the Secretary on the investigation, the steps taken to secure compliance and the outcome of those steps.
- (7) On receipt of the report, the Secretary may:
 - (a) require the designated agent to make further investigations;
 - (b) if further conciliation is indicated, appoint a conciliator from the Council's panel of conciliators;
 - (c) refer the dispute for conciliation to the Disputes Committee of the Council;
 - (d) issue a compliance order; or
 - (e) refer the dispute to arbitration in terms of this Agreement.
- (8) If a conciliator is appointed or the dispute is referred to the Disputes Committee, the Secretary must decide the date, time and venue of the conciliation meeting and must serve notices of these particulars on the parties to the dispute.
- (9) Where a dispute is referred to conciliation, the conciliator or disputes committee must attempt to resolve the dispute within a period of 30 days or within an extended period as agreed by the parties to the dispute.
- (10) Where a dispute is not resolved after a conciliation meeting, or after 30

days, or after any extended period as agreed between the parties, the Council must issue a certificate stating that the dispute was not resolved.

- (11) Where the Act requires a dispute to be resolved through arbitration and a certificate has been issued in terms of (10), any party may request the Council to appoint an arbitrator to resolve the dispute. Such request must be made within 30 days of the date of the certificate issued in terms of (10). The parties to the dispute may agree to extend this period or the arbitrator may condone a late referral on good cause shown.
- (12) If a compliance order is issued, that order must be served on the party allegedly in breach of the Agreement.
- (13) The party on whom the order is served may object in writing. The objection must be served on the Council within 14 days service of the order.
- (14) If a party objects, the Secretary may take any of the steps referred to in sub-clause (7) except the issue of another compliance order.
- (15) If a party fails to object, the Secretary may, at any time, apply to have the order made an arbitration award.
- (16) If the dispute is referred to arbitration, the Secretary must appoint an arbitrator from the Council's panel of arbitrators. Arbitrators serving on the panel shall be appointed to arbitrate matters on a rotational basis, unless the parties to the dispute agree on an Arbitrator from the panel, with the next available Arbitrator being appointed should any panel member(s) not be available in terms of such rotation.
- (17) The Secretary, in consultation with the arbitrator, must decide the date, time and venue of the arbitration hearing.
- (18) The Secretary must serve notices of the date, time and venue of the arbitration on:
 - (a) the parties to the dispute;
 - (b) any person who may have a legal interest in the outcome of the arbitration.
- (19) Unless this agreement provides otherwise, the Arbitrator must resolve

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- the dispute through arbitration.
- 20) The arbitrator must conduct the arbitration in a manner that the arbitrator considers appropriate in order to determine the dispute fairly and quickly, but must deal with the substantial merits of the dispute with the minimum of legal formalities.
- (21) Subject to the arbitrator's discretion as to the appropriate form of the proceedings, a party to the dispute, including the Council, may give evidence, call witnesses, question witnesses of any other party, and address concluding arguments to the arbitrator.
- (22) The arbitrator may suspend the arbitration proceedings and attempt to resolve the dispute through conciliation if the Council and the parties to the dispute consent to this.
- (23) In any arbitration proceedings, a party to the dispute may appear in person or be represented by a legal practitioner, a co-employee or by a member, office-bearer or official of that party's trade union or employers' organisation and, if the party is a juristic person, by a director or employee.
- (24) If the party who referred the dispute to the Council fails to appear in person or to be represented at the arbitration proceedings, the arbitrator may dismiss the matter.
- (25) If a party, other than the party who referred the dispute to the Council, fails to appear in person or be represented at the arbitration proceedings, the arbitrator may-
- (a) continue with the arbitration proceedings in the absence of that party; or
 - (b) adjourn the arbitration proceedings to a later date.
- (26) The Secretary may refer disputes to expedited arbitration if the Secretary is satisfied that-
- (a) a compliance order has been issued and the party on whom the order has been issued has not objected to the order;
 - (b) the dispute is capable of being determined by written evidence only;
 - (c) the dispute is only about the interpretation of the Agreement; or

- (d) the parties to the dispute agree.
- (27) Notwithstanding the provisions of sub-clause (23), the arbitrator may determine the dispute and make the compliance order an award without hearing oral evidence if the arbitrator is satisfied that-
 - (a) the parties have been properly served; and
 - (b) it is appropriate in the circumstances to do so.
- (28) Within 14 days of the conclusion of the arbitration proceedings -
 - (a) the arbitrator must issue an arbitration award with reasons, signed by the arbitrator; and
 - (b) the Council must serve a copy of that award on each party to the dispute.
- (29) On good cause shown, the Secretary of the Council may extend the period in which the arbitration award and the reasons are to be served and filed.
- (30) The arbitrator may make any appropriate award, including an order for costs, that gives effect to the collective agreement.
- (31) An arbitrator may at his or her own initiative or as a result of an application by an affected party, vary or rescind an award-
 - (a) erroneously sought or made in the absence of any party affected by the award;
 - (b) in which there is ambiguity, or an obvious error or omission, but only to the extent of that ambiguity, error or omission; or
 - (c) granted as a result of a mistake common to the parties to the proceedings.
- (32) The Secretary of the Council may apply to make the arbitration award an order of the Labour Court under section 158(1) of the Labour Relations Act.
- (33) The provisions of this dispute procedure stand in addition to any other legal remedy through which the Council may enforce a collective agreement or recover any money due.
- (34) (a) If the Arbitrator finds that any party has failed to comply with any provision of the collective agreement which is binding on that party, the Arbitrator

may, in addition to any other appropriate order, impose a penalty.

- (b) The maximum penalty that the Arbitrator may be impose-
- (i) for a failure to comply with a provision of the collective agreement not involving a failure to pay any amount due to an employee/party is the penalty determined in terms of Table One;
 - (ii) for a failure to comply with a provision of the collective agreement involving a failure to pay any amount due to an employee/party is the penalty determined in terms of Table Two.

**TABLE ONE:
MAXIMUM PERMISSIBLE PENALTY NOT INVOLVING AN UNDERPAYMENT**

No previous failure to comply	R300 per employee or incident in respect of whom/which the failure to comply occurs i.e. daily, weekly, fortnightly, monthly or otherwise as the case may be.
A previous failure to comply in respect of the same provision	R600 per employee or incident in respect of whom/which the failure to comply occurs. i.e. daily, weekly, fortnightly, monthly or otherwise as the case may be.
A previous failure to comply within the previous 12 months or two previous failures to comply in respect of the same provision within three years	R900 per employee or incident in respect of whom/which the failure to comply occurs. i.e. daily, weekly, fortnightly, monthly or otherwise as the case may be.
Three previous failures to comply in respect of the same provision within three years	R1200 per employee or incident in respect of whom/which the failure to comply occurs. i.e. daily, weekly, fortnightly, monthly or otherwise as the case may be.
Four previous failures to comply in respect of the same provision within three years	R1500 per employee or incident in respect of whom/which the failure to comply occurs. i.e. daily, weekly, fortnightly, monthly or otherwise as the case may be.

TABLE TWO
MAXIMUM PERMISSIBLE PENALTY INVOLVING AN UNDERPAYMENT

No previous failure to comply	25% of the amount due, including any interest owing on the amount at the date of the order
A previous failure to comply in respect of the same provision within three years	50% of the amount due, including any interest owing on the amount at the date of the order
A previous failure to comply in respect of the same provision within a year, or two previous failures to comply in respect of the same provision within three years	75% of the amount due, including any interest owing on the amount at the date of the order
Three previous failures to comply in respect of the same provision within three years	100% of the amount due, including any interest owing on the amount at the date of the order
Four or more previous failures to comply in respect of the same provision within three years	200% of the amount due, including any interest owing on the amount at the date of the order

SIGNED AT DURBAN ON THE 29th DAY OF SEPTEMBER 2021

J J V VYMETAL, Member of the Council

J. V. Vymetal

M J OOSTHUIZEN, Member of the Council

M. J. Oosthuizen

H STRAUSS, Member of the Council

H. Strauss

A O BENJAMIN, Member of the Council

A. O. Benjamin

V MEMBINKOSI, Member of the Council

V. Membinkosi

S NAIDOO, General Secretary of the Council

S. Naidoo