

South Africa

Labour Relations Act, 1995

National Textile Bargaining Council: extension to non-parties of the COVID-19 lockdown collective amending agreement

Government Notice R488 of 2020

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National Textile Bargaining Council: extension to non-parties of the COVID-19 lockdown collective amending agreement

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Government Notice R488 of 2020

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Assented to on 30 April 2020

Commenced on 4 May 2020

[This is the version of this document from 4 May 2020.]

I, Thembelani Waletmade 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 Textile Bargaining Council, and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the Agreement, shall be binding on the other employers and employees in that Industry with effect from the date of publication until 28 February 2022.

Mr TW Nxesi, MP

Minister of Employment and Labour

National Textile Bargaining Council
Extension of COVID-19 Lockdown Collective Agreement
South African Cotton Textile Processing Employers' Association
(SACTPEA)
South African Carpet Manufacturing Employers' Association
(SACMEA)
National Manufactured Fibres Employers' Association
(NMFEA)
National Association of Worsted Textile Manufacturers
(NAWTM)
Narrow Fabric Manufacturers Association
(NFMA)
South African Wool and Mohair Processors' Employers' Organisation
(SAWAMPEO)
National Textile Manufacturers' Association
(NTMA)
South African Home Textiles Manufacturers Employers' Organisation
(HOMETEX)
South African Blankets Manufacturers Employers' Organisation
(SABMEO)
Wool and Mohair Brokers Employers' Organisation of South Africa
(WAMBEOSA)
(hereinafter referred to as "the employers")
and the
Southern African Clothing and Textile Workers' Union
(‘SACTWU’ or "the union")
(hereinafter referred to as "the parties")

1. Preamble

The parties

- 1.1 Record that the primary intention of this collective agreement is to ensure that workers are not left destitute with no income, during the lockdown period, as was announced by the President of South Africa on Monday 23 March 2020.
- 1.2 Record their deep concern about the escalating rate of COVID-19 infections in our country and globally, and the consequential devastating effect on our domestic economy, in particular its negative consequences for the labour market.

- 1.3 Are of the firm belief that, in order to mitigate the anticipated and devastating negative implications of COVID-19, an urgent and decisive collective response is required to protect the interests of the stakeholders in our industry.
- 1.4 Wish to take pro-active steps to protect the interests of employees in our industry and country, their families and the future sustainability of all sectors in the textile manufacturing industry and its related pipeline operations, due to the national lockdown which has now been declared.
- 1.5 Are of the view that they cannot just rely on government to fight this battle alone, but that we have a patriotic duty to play a supportive role by first drawing on our own resources, meagre and difficult as it might be, as a constructive contributory effort to combat this threat to the well-being of employees in the textile- and related industry pipeline, and in our country at large.
- 1.6 Wish to encourage and strengthen the role of our country's centralised bargaining regime, by using the current COVID-19 Pandemic as an opportunity to expand the role of the textile industry bargaining council beyond just that of mainly being a collective bargaining- and dispute resolution institution, by demonstrating that it can deliver additional value-added services to our industry and the country at large, in moments of national crises.
- 1.7 Wish to promote greater and mutually beneficial co-operation between the various labour market institutions in our country, by practically encouraging greater sharing of their respective resources, such as infrastructure, towards the goal of greater efficiency in the execution of their core mandates and common goals (such as greater and better compliance with our country's employment laws).
- 1.8 Are of the view that we need to do whatever we can to protect jobs in our industry and country, especially during crises periods like which COVID-19 is imposing on us.
- 1.9 This document constitutes a single agreement and shall be referred to as the "COVID-19 Lockdown Collective Agreement" and/or "this agreement".
- 1.10 The parties agree to be bound by the intentions of this preamble to this agreement, which forms a substantive part of this agreement.

The parties further agree

- 1.11 Having concluded a collective agreement on 26 March 2020, called the "COVID-19 Lockdown Collective Agreement".
- 1.12 Note that sub-clause 4.3 of the collective agreement referred to in sub-clause 1.1 above provides for the following:
"The parties acknowledge that there is a possibility that the current lockdown period might be extended for a period of longer than 3 weeks, and commit to constructively continue to explore income support for employees, in the event of a longer than 3 weeks lockdown period being declared. This engagement will be conducted during the currency of the current lockdown period."
- 1.13 Accordingly desire to give effect to the provisions of sub-clause 4.3 of the collective agreement referred to in sub-clause 1.11 by amending that collective agreement in anticipation that the current national lockdown period might be extended by government, for a further period beyond 16 April 2020.
- 1.14 Accordingly, hereby agree to amend and extend the current collective agreement referred to in sub-clause 1.11 above, on the terms and conditions set out in the rest of this amending collective agreement.

2. Scope and effective date

- 2.1 This Amending Collective Agreement shall bind the parties and their members. It shall become effective as from the date adopted by Council (irrespective of date of signature) and shall remain effective until the parties agree otherwise.
- 2.2 The scope of this Agreement shall cover all employers and employees in the registered scope of the National Textile Bargaining Council.
- 2.3 Despite the provision of sub-clause 2.2 of this agreement, the Council authorises that the UIF payment and transmission service provisions of this agreement shall be offered as a value added solidarity service to all employees in our industry pipeline, or any members of the trade union, beyond the registered scope of the Council, provided that the Unemployment Insurance Fund (UIF) funds referred to later in this agreement are sufficient to cover such an expanded service.
- 2.4 The provisions contained in this amending collective agreement, once adopted by the National Textile Bargaining Council, will be submitted to the Department of Employment and Labour for extension to cover all non-parties and nonsignatory party employer associations within the registered geographic scope of the areas covered by the National Textile Bargaining Council.
- 2.5 The effective date of implementation of this Amending Collective Agreement is 6 April 2020 and the duration of this Agreement will be effective for a 24 month period 6 April 2020 until 5 April 2022, but further subject to sub-clause 2.6 below.
- 2.6 The provisions of this amending collective agreement shall be in addition to the provisions of the current Main Agreement which combined shall, subject to Ministerial approval, remain gazetted and extended to non-parties and shall remain in force until such time as the members agree to further amend this extended agreement.

3. Access to unemployment insurance fund (UIF) finance

The following provisions shall be applicable:

- 3.1 The parties agree and appreciate that should funds be received from the UIF for the purposes of this amending agreement, such funds constitute worker funds, and hence workers' contribution towards funding the shortfall in their income during the extended lockdown period and during which no wage is receivable.
- 3.2 The parties authorise the Chairperson of the Council to sign a memorandum of understanding agreement with the UIF Commissioner and/or the Minister of Employment and Labour or their respective nominee, which sets out the terms on which UIF funds will be released to the Council for the sole purpose of executing the provisions of this agreement.
- 3.3 Should the provisions of 3.2 above not be possible, the Council authorises the Chairperson to sign a services sharing agreement with the National Bargaining Council for the Clothing Manufacturing Industry, in terms of which UIF funds due to the National Textile Bargaining Council for the purpose of distributing it to qualifying industry employees, are transmitted from the UIF to the National Bargaining for the Clothing Manufacturing Industry and there-after to the National Textile Bargaining Council.
- 3.4 The parties authorise the Secretary of the Council to open a dedicated bank account into which all UIF funds advanced to the council for the execution of the purpose of this agreement shall be deposited. If such a dedicated bank account has already been opened in terms of the provisions of sub-clause 3.4 of the lockdown collective agreement of 26 March 2020, the same bank account shall be used for the purposes of this amending agreement.
- 3.5 No funds shall be disbursed from the bank account referred to in sub-clause 3.4 above, other than that which is duly authorised and which is exclusively intended and ring-fenced for the purposes of this agreement.

- 3.6 The UIF funds are solely and exclusively intended to provide a wage subsidy for qualifying employees during an extended lockdown period declared by government and during which no wage payments from the execution of work is due and/or receivable.
- 3.7 The officials of the Council shall at all times ensure that proper records, including all supporting documents of all income and disbursements from the bank account referred to in sub-clause 3.4 of this agreement, are safely kept and secured.
- 3.8 The Secretary of the Council shall submit a weekly consolidated report to the UIF Commissioner of all income and disbursements pertaining to the bank account referred to in sub-clause 3.4 of this agreement.
- 3.9 The Council shall ensure that, post the extended lockdown period, if an extended lockdown period is declared, the bank account referred to in subclause 3.4 of this agreement is audited by no later than a 6 week period following the official termination of the extended lockdown period.
- 3.10 The UIF Commissioner or the Minister of Employment and Labour shall have the sole power to authorise a variation of the time period set out in sub-clause 3.9 of this agreement, on good cause.
- 3.11 The Secretary and/or Chairperson of the Council, or any other nominee of the Council, are instructed to immediately lay criminal charges against any person and/or entity who/which are suspected of abuse or corruption relating to the operations of the bank account referred to in sub-clause 3.4 of this agreement or in relation to any income or disbursements there-from.
- 3.12 The information and supporting records which companies would be required to submit for a drawdown of funds as envisaged in clause 4 of this agreement shall be immediately made available to the UIF, on request from the UIF.
- 3.13 Any UIF funds which remain after the completion of a post-Covid 2019 extended lockdown shall be fully refunded to the UIF within one week following the conclusion of the audit referred to in sub-clause 3.8 of this agreement.
- 3.14 The parties agree to appoint additional Council staff at its own cost to help manage the processes required to effectively and securely manage the bank account referred to in sub-clause 3.3 of this agreement.

4. Payments to employees

- 4.1 This amending agreement entitles employees who qualify for wage subsidy support in terms of the provisions of this amending agreement, UIF funding for the period as declared by the President with effect from the start of the extended current lockdown period, and should any further extended lockdown period be announced, in weekly amounts as follows:
 - (a) For the lockdown period, UIF funding for each week in the period, payable by the UIF for the remaining lockdown period.
 - (b) Should the lockdown be lifted by the President prior to end of a week the employer will pay that part of the week for work performed that does not form part of the extended lockdown period.
 - (c) Employer agrees to the full payment of any public holiday that may fall within the time frames of the extended lockdown period.
- 4.2 Normal statutory deductions and deductions prescribed by the Council's main agreement where applicable shall continue to be effected, for all payment periods referred to in sub-clause 4.1. of this agreement, subject to the requirements of the TERS directive, regulations and the UIF Act and any other applicable legislation. Similarly, employer contributions to statutory obligations and those prescribed by the Council's Main Agreement where applicable shall continue to be executed, subject to the requirements of the TERS regulations, UIF Act and any other applicable legislation. In the event that companies are unable to pay any of the above mentioned deductions companies may apply for exemption through the RRT.

- 4.3 The parties agree that nothing in this amending COVID-19 Textiles agreement shall prevent SACTWU and the management to agree at a plant level for any payment in excess of the wage subsidy that is to be received from worker funds received by the UIF.
- 4.4 The parties acknowledge that there is a possibility that the extended lockdown period may be extended for an even longer period, and commit to constructively continue to explore income support for employees, in the event of a longer extended lockdown period being declared. This engagement will be conducted during the currency of this extended lockdown period.
- 4.5 The parties acknowledge that the cost implications of the provisions of clause 4 of this amending agreement is unforeseen and unprecedented, and shall continue to explore means by which it could be mitigated.
- 4.6 The provisions of clause 4 of this agreement apply to companies and employees within the registered scope of the Council and who are registered with the Council, as well as those referred to in sub-clause 2.3 of this amending agreement, but provided that the latter shall not be required to register with the Council, unless they do so voluntarily.
- 4.7 The parties agree that, post this lockdown period, employees shall be required to assist with the making up of lost production time, and where lost production requires overtime work, employees shall be paid at overtime rates of pay provided that such overtime work arrangement will be done is discussed at plant level.
- 4.8 The provisions of sub-clause 4.7 of this amending agreement shall only apply to that week which the employer is required to pay wages which are not due for work already performed or from the UIF, as set in sub-clause 4.1 above.
- 4.9 The provisions of sub-clause 4.1 of this amending agreement shall also be applicable to monthly paid employees in the bargaining unit, provided that payment shall be effected during the last week of April 2020 and the last week of May 2020 and the last week of June 2020. Further payments shall become applicable on the last week of each month should the extended lockdown period be extended further than 30th June 2020.
- 4.10 The parties agree that the Rapid Response Team shall continue to engage and explore further income support measures for employees as the need arises should there be further extensions to the national lockdown period.
- 4.11 The parties record that the provisions of clause 4 of this amending agreement currently does not address the payments for the Textile Industry salaried staff. It is agreed that employers in the Textile Industry will apply for TERS UIF funding for the salaried staff both union and non-union members.

5. COVID-19 extended lockdown period

- 5.1 The extended lockdown period referred to in this amending collective agreement is the extended lockdown period commencing on 17 April 2020 which was announced by the President of the Republic of South Africa on 09 April 2020.
- 5.2 The employer parties to the Council agree to use the COVID-19 extended lockdown period, should an extended lockdown period be announced, together with the provisions of sub-clause 5.2 of the collective agreement referred to in sub-clause 1.1 of this amending collective agreement, to develop and execute a program to mitigate the negative consequences of this unexpected extended lockdown period on the business.
- 5.3 The parties agree that the established Rapid Response Team shall consider and resolve any unforeseen or response matters emanating from the implementation of this extended amending lockdown collective agreement and which may arise during the COVID-19 extended lockdown period, should further extended lockdown period be announced, with the finalisation of exemption applications receiving first priority.

- 5.4 Employers shall take such steps as may be necessary to shut down workplaces for the purposes of the extended lockdown period, should an extended lockdown period be declared, in such a manner that company assets are properly secured for the duration of this extended lockdown period, subject to the specific operational requirements of each company.

6. COVID-19 extended post-lockdown period

Employers undertake to ensure, post the COVID-19 extended lockdown period (should an extended lockdown period be declared), that employees are provided with the necessary and appropriate support to integrate them smoothly and safely back into production.

7. Dispute resolution

Any disputes which may arise from the interpretation and/or application of this amending collective agreement shall be resolved through expedited arbitration, unless otherwise decided by the disputing parties and using the current panel of Conciliators and Arbitrators of the Council (unless otherwise decided by the disputing parties).

8. Other conditions

- 8.1 All other previously agreed terms and conditions not specifically varied by the provisions of this amending agreement shall remain in force and effect, unless otherwise agreed between the parties.
- 8.2 All terms shall have the same meaning as those set out in the Council's Main Agreement.
- 8.3 The parties accept that the terms agreed to are hereby formalised in this written amending agreement concluded and signed under the auspices of the National Textile Bargaining Council.
- 8.4 Where government announces support measures to mitigate the negative consequences of the lockdown, the content of this amending agreement is not intended to undermine the parties' ability to access such support measures.

Chairperson

J Brouwer

Vice Chairperson

B Loubser

Secretary

G P Pillay