



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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WINDHOEK - 1 December 2011

No. 4842

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## Government Notice

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### MINISTRY OF LABOUR AND SOCIAL WELFARE

No. 223

2011

#### INVITATION FOR OBJECTIONS TO EXTENSION OF COLLECTIVE AGREEMENT CHARCOAL INDUSTRY: LABOUR ACT, 2007

I hereby inform the public that in terms of subsection (3) of section 71 of the Labour Act 2001 (Act No. 11 of 2007) the Namibia farm Workers Union and the Namibia Charcoal Producers, have applied to me in terms of subsection (2) of that section to extend their collective agreement dated 13 June 2011 which is set out in the Schedule, to apply to all employers and employees in the charcoal industry who are not presently parties to the aforesaid agreement.

Anyone who wishes to object to the extension of the agreement, in whole or in part, must deliver a written statement setting forth the reasons for the objection to my office at the Ministry of Labour and Social Welfare, 32 Mercedes Street, Khomasdal, within 30 days from the date of this notice, or send the written statement by mail to the Minister of Labour and Social Welfare, Private Bag 19005, Khomasdal or by facsimile to the Minister at 061-210047, in time to reach my office within 30 days after the date of this notice.

**I. NAGATJIZEKO**  
**MINISTER OF LABOUR AND SOCIAL WELFARE**

Windhoek, 10 November 2011

**SCHEDULE****COLLECTIVE AGREEMENT ON MINIMUM WAGE IN THE CHARCOAL INDUSTRY****COLLECTIVE AGREEMENT**

MADE AND ENTERED INTO By and BETWEEN:

**NAMIBIA FARMWORKERS UNION (NAFWU)**  
herein represented by Mr Alfred Michael Angula  
("The Union")

AND

**NAMIBIA CHARCOAL PRODUCERS ASSOCIATION**  
herein represented by Mr Frans Holtzkamp  
("The Association")

(Hereinafter referred to as the Parties)

**PREAMBLE:**

Both Parties to this Agreement commit themselves to adhere and implement the protection of fundamental rights and freedoms of charcoal burners and workers as provided for in the Constitution of the Republic of Namibia, including all national legislation and international instruments applicable to the labour industry.

**WHEREAS** the Association, for and on behalf of the entire charcoal industry, and duly represented by Namibia Charcoal Producers Association, wishes to enter into an agreement with the Namibia Farm Workers Union to promote harmonious industrial relations and thus acknowledges that same requires cooperation, mutual respect and indulgence; and

**WHEREAS** both Parties are desirous and eager to enter into this memorandum of agreement which has as its main objective the regulating of sound labour relations.

**NOW THEREFORE** the Parties agree as follows:

**1. DEFINITIONS AND INTERPRETATION**

The following words and expressions shall have the meanings assigned to them, unless the context otherwise indicates:

**1.1 Definitions**

- 1.1.1 "Union" means NAMIBIA FARMWORKERS UNION (NAFWU)
- 1.1.2 "Minimum Wage" means the least payable price per ton amount of remuneration to an employee/ charcoal burner, being the result of work done by same in favour of an employer! charcoal producers, which, for the purpose of this Agreement, is captured under clause 2.8 hereof.
- 1.1.3 "Periodic Medical Examination" means the occupational medical treatment of all the employees at least once a year, of which same shall be availed to each employee on the employer's costs so as to ensure and sustain the health and safety of all its employees.

- 1.1.4 “Protective Equipment” has the same meaning provided for under the Labour Act, 2007 (Act No. 11 of 2007).
- 1.1.5 “Union Dues” shall bear the same meaning as provided for in the Labour Act, 2007 (Act No. 11 of 2007).
- 1.1.6 “Agreement” means this agreement between the parties.
- 1.1.7 “Charcoal producers” mean a person who is producing charcoal in Namibia.
- 1.1.8 “Employees” means the charcoal burners within the charcoal industry.
- 1.1.9 “Association” means the Namibia Charcoal Producers Association.

## **1.2 Interpretations**

- 1.2.1 The Heading in this Agreement shall not be used in its interpretations.
- 1.2.2 The singular includes the plural and the masculine includes the feminine and vice-versa where the context requires.

## **2. THE SERVICES**

The Association shall provide to the Union the following services, all of which shall commence upon the signing of this Agreement:

### **2.1 Collection and transfer of Union Dues**

- 2.1.1 All charcoal producers (employers) may as per section 66 subsection 1 and 2 collect every month N\$ 20.00 (Twenty Namibia Dollar) from each charcoal burners (employee) and pay same, or cause to be paid to the Union without any delay whatsoever such dues monthly, at an administrative fee of not more than 5 percent. Such payment shall be paid over to the union on a quarterly basis.
- 2.1.2 The Union shall furnish the Association without charge and within a reasonable time all pertinent data and information available to it, which may be necessary to ensure the satisfactory payment or transfer of the agency dues to it.
- 2.1.3 Payments to the Union by all the employers shall be made in accordance with this clause and same shall constitute the only payments due to the Union in connection with this Agreement, unless otherwise agreed upon by the Parties and reduced to writing.
- 2.1.4 The Ministry of Labour and Social Welfare shall provide the Union with the list of all producers with full name and telephone numbers, as well as all employees under her employment obtained from the directorate of forestry.
- 2.1.5 The producers shall inform the Union of any changes in her employment.

### **2.2 Access to premises of work**

- 2.2.1 The NAFWU shall have access to all farms and premises at all times where the workers are being employed, provided that an appointment is made in

good time at least 4 days in advance. Representative of the NAFWU shall produce an official identification card and registration of the Union if and when required by the Association or its representative.

## **2.3 Recognition**

The Associations recognise the NAFWU as negotiation partner in the industry as provided for in the laws of The Republic of Namibia with full facilities.

### **2.3.1 Union Responsibilities**

- a) The union may assist the charcoal burners in the obtaining in the national identification document.
- b) The union may help with the registration of social security of the charcoal burners.
- c) The union may help with the negotiations on the reduction of the medical examination fees or cost of the charcoal producers.
- d) Educate members on the Labour Act, 2007 (Act No. 11 of 2007).
- e) Contact training on various topics related to labour and social development.

## **2.4 Eviction / Termination of workers**

Both Parties are at consensus ad idem that before charcoal burner and his relative in either direct or indirect line of relationship shall be evicted from any farm without prior negotiations and agreement between the Parties.

## **2.5 Protective equipment**

2.5.1 The producers shall, as provided for under the laws of the Republic of Namibia, make available to each charcoal burners the necessary protective equipment and clothing, at least once in year, free of charge.

## **2.6 Periodic medical examination**

2.6.1 The employer shall provide to each worker occupational medical at least once a year, of which same shall be availed to such worker on the employer's costs so as to ensure and sustain the health and safety of all its workers.

## **2.8 Minimum wage per ton**

The employer shall pay to each employee a minimum wage namely:

- 2.8.1 Tsumeb, Grootfontein and Otavi area - a minimum wage of 38 percent for un shift charcoal and 40 percent for shift charcoal of the selling price of the product; and
- 2.8.2 Otjiwarongo and Outjo areas - a minimum wage of 35 percent of un shift and 37 percent for shift charcoal of the selling price of the product;
- 2.8.3 All other areas not mentioned shall be treated as per section 2.8.1. and 2.8.2.

- 2.8.4 All percentages mentioned above in 2.8.1 and 2.8.2 includes 1% overtime payment.
- 2.8.5 Every charcoal producer (employer) shall grant paid leave of 3% of the selling price per ton accumulated over 12 month leave cycle as provided for by the Labour Act, Act No. 11 of 2007 Section 23.
- 2.8.6 Where an employee is by virtue of his employment required to live in or on the place of his employment or to reside on any premises of his employer, such employer shall.
- 2.8.7 provide such employee with such housing, including sanitary and water facilities, as may comply with the reasonable requirements of such employee.

### **OTHER PROVISION**

The charcoal burners shall be entitled to all the conditions of services and benefits, as prescribed in the Labour Act, 2007 (Act No. 11 of 2007) and as per cabinet directives and its decision no. 1st / 23.01.07/004.

The Charcoal producers shall take responsibility for all the employees in their employment, including the charcoal cutters who are performing duties on farms or any other place.

The charcoal producers should provide their charcoal burners with all necessary personal protective equipment free of charge, as prescribed in the regulations related to the health and safety of employees at work.

The employer should maintain personal protective equipment to ensure that they are in a good condition and in a state of repair.

The charcoal cutters shall undergo pre-employment and periodic medical examination, in order to ensure that they are healthy and fit for the work to be performed. And the employer shall pay all cost related to that.

The medical surveillance, as specified in regulation 219 of the Regulation Relating to the health and safety of employees at work, should be conducted at the expense of the employer, and should be conducted during working hours.

The charcoal producer must send some of the workers to attend training on first aid to become first aiders, in order to provide first aid to injured coworkers at the work place.

The charcoal producer should provide and maintain a readily accessible first aid box at the workplace.

### **3. LANGUAGE AND LAW**

- 3.1 All communications and other matters between the Union and the Association in connection with this Agreement shall be in official language (English) only.
- 3.2 The Law which is to apply to this Agreement is the Law of the Republic of Namibia hereby refer to Labour Act and its regulation.

### **4. NOTICES**

- 4.1 All notices under this Agreement shall be in writing and shall take effect from receipt thereof,

- 4.2 Delivery of notices may be by hand or facsimile message against proof of receipt or by registered letter.
- 4.3 Both Parties shall not, during the performance of the Agreement (save in the proper course of its duties) or at any time after expiry or termination of this Agreement, disclose to any person or otherwise make use of any confidential information which it has obtained or may in the course of this Agreement.

## **5. DOMICILIA CITANDI ET EXECUTANDI**

The Parties choose as their respective domicilia citandi et executandi the following addresses:

- 5.1 The Union:  
ERF: 8506 Mungunda Street, Katutura, Windhoek  
PO Box 21007  
Windhoek
- 5.2 The Association  
c/o Robert Mugabe & John Street, Windhoek  
PO Box 13255  
Windhoek

## **6. AGREEMENT AND VARIATION**

- 6.1 This Agreement is the agreement between the Parties and supersedes any previous agreements between them relating to matters referred to herein.
- 6.2 Variations and addenda may be made to this Agreement which shall be effective only if made in writing and signed by both Parties.

## **7. VALIDITY**

- 7.1 If any provision of this AGREEMENT is found or held to be invalid or unenforceable, the validity of all other provisions hereof shall not be affected thereby and the PARTIES agree to review the matter, and if any valid and enforceable means are reasonably available to achieve the same object as the invalid or unenforceable provision, adopt such means by way of variation of this AGREEMENT.

## **8. SEVEREABILITY**

- 8.1 In the event that any term of the AGREEMENT is found or held to be invalid or unenforceable, such term shall be severable from the remaining terms, which shall continue to be valid and enforceable. If any term is capable of amendment in order to render it valid, the PARTIES agree to negotiate an amendment to remove the invalidity.

## **9. SETTLEMENT OF DISPUTES**

- 9.1 The Parties shall negotiate in good faith with a view to settling any dispute or claim arising out of or relating to this Agreement and may not initiate any further proceedings until either Party has, by written notice to the other, declared that such negotiations have failed. If parties fail to reach an agreement, provision of the Labour Act, 2007 (Act No. 11 of 2007) shall apply

**10. DATE OF COMMENCEMENT AND DURATION OF AGREEMENT**

10.1 This agreement shall enter into force upon signature and shall, subject to the provisions of clause 6, remain in full force and effect. This agreement, once Gazetted shall be binding to all Charcoal Producers (employers) and Charcoal Burners (employees) in the Charcoal industry sector.

10.2 The terms of this Agreement shall, notwithstanding clause 9.1, continue to bind the Parties to such extent and for so long as may be necessary to give effect to the rights and obligations specified in this Agreement.

10.3 This Agreement shall be reviewable every second year.

**11. ENFORCEMENT, MONITORING AND IMPLEMENTATION**

Both the Union and Charcoal producers association as well as the labour inspectors or the Ministry of Labour and Social Welfare shall ensure /encourage the enforcement thereof and any person violating the agreement shall treated according to provision of the Labour Act.

THUS DONE and SIGNED at Windhoek ..... on this .....Day of .....

AS WITNESSES:

- 1. ....
- 2. ....  
Ministry of Labour and Social Welfare                      For and on behalf of the Union.

THUS DONE and SIGNED at ..... on this ..... Day of .....

AS WITNESSES:

- 1. ....
- 2. ....  
Ministry of Labour and Social Welfare                      The Charcoal Producers Association.

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