

NATIONAL UNION OF METALWORKERS OF SOUTH AFRICA

153 Lillian Ngoyi Street
Newtown, Johannesburg
2001



P.O. Box 260483

EXCOM 2023

Tel: (011) 689-1706

EMAIL: vusumzim@numsa.org.za

Fax: (011) 689-1701

OCCB Engineering Sector Co-ordinator

DATE: 15 January 2019

Attention: Metal and Engineering Industries Bargaining Council (MEIBC)
Sicelo Nduna: MEIBC General Secretary

Mr. Vice Ngonyama: General Manager Operation
Vicen@meibc.co.za

Mr. Afzul Soobedaar: MEIBC Administrator
administrator@meibc.co.za

And

Copy: Mr. Lucio Trentini obo The Employer Associations affiliated to
SEIFSA, Party to the Council and/or Represented on the MEIBC
lucio@seifsa.co.za

Copy: National Employers Association of SA (NEASA)
Mr. Gerhard Papenfus
info@neasa.co.za; gerhardpapenfus@neasa.co.za

Copy: Plastic Converters Association of SA (PCASA)
Mr. Johan Pieterse
johan@pcasa.co.za

Copy: Consolidated Employers Organisation (CEO)

Mr. Johann Preiss
johann.preiss@ceosa.org.za

Copy: South African Engineers and Founders Association (SAEFA)
Mr. Gordon Angus
gordon@saefa.co.za

Copy: South African United Commercial & Allied Employers
Organisation
(SAUEO)
Ms. Elise Coetser
Elise.coetser@saueo.co.za

Copy: Federated Employers Organisation of SA
(FEOSA)
Mr. Johan Pretorius
feosa@secunda.co.za

And

Copy: SOLIDARITY
Mr. Marius Croucamp
mariusc@solidariteit.co.za

SOLIDARITY
Mr. Francois van Heerden
fvh@solidariteit.co.za

SOLIDARITY
Mr. Hennie Vosloo
hennie@solidariteit.co.za

Copy: UASA
Mr. Pierre Bezuidenhout
pierre.bez@uasa.org.za

UASA
Mr. Frik VAN Straten
frik@uasa.org.za

Copy: SAEWA
Mr. Siphon Mayisela
siphon@saewa.co.za

SAEWA

Mr. Ruttie Mels
mels@saewa.co.za

Copy: MEWUSA
Mr. Peter Madigoe
info@mewusa.org.za

ATTENTION: GENERAL SECRETARY AND ADMINISTRATOR

INITIATING NEGOTIATIONS FOR THE AMENDMENT OF AN EXISTING AGREEMENT ITO CLAUSE 10 AND ANNEXURE E OF THE MEIBC CONSTITUTION: CONSOLIDATED MAIN AGREEMENT 2017/2020

In accordance with Clause 10 and Annexure E (2): Negotiating Procedures of the Metal and Engineering Industries Bargaining Council (MEIBC) Constitution, NUMSA requests you to convene a negotiating meeting, as envisaged by Annexure E, item 2, on an expedited basis and on 7 days' notice to the Parties.

The Parties to the Collective Agreement which is applicable for the period 1 July 2017 until 30 June 2020, together with the Annexures thereto (the Agreement) entered into the Agreement on the understanding that it could withstand legal scrutiny and/or challenge and was in no way legally defective.

On 17 October 2018, the Department of Labour sent a letter to the Bargaining Council wherein it raised various concerns relating to the Agreement.

In order to address these concerns NUMSA proposes amending the Consolidated Main Agreement 2017/ 2020 as set out herewith.

Kindly regards
electronically transmitted
Vusumzi Mabho
NUMSA Sector Coordinator

NUMSA proposes the following amendments to the Agreement to be read together with the Consolidated Main Agreement (MAC) sent as Part 1 and Part 2:

1. **To amend** clause 23(1)(c) as follows:

1.1. **by deleting** the following:

(c)(i) In the year of signing this Agreement, party employers may submit an application for exemption from the wage increases within thirty (30) days of signature of this Agreement.

(c)(ii) If the Consolidated Main Collective Agreement is extended to non-parties and published in a Government Gazette, non-party employers will have thirty (30) days from the date of extension and publication in a Government Gazette to submit an application for exemption;

(c)(iii) In the second and third year of the Agreement (i.e. 1 July 2018 to 30 June 2019 and 1 July 2019 to 30 June 2020), party and non-party employers will be required to submit their applications for exemption to their respective Regional Bargaining Council Offices, in accordance with the relevant provision of the Bargaining Council's Exemptions Policy attached as Annexure J, by no later than 31 July 2019 and 31 July 2020 respectively.

1.1. **by replacing** these clauses with the following clauses:

(c)(i) In the year of signing this Agreement, party employers may submit an application for exemption from the wage increases within thirty (30) days of signature of this Agreement.

(c)(ii) If the Consolidated Main Collective Agreement is extended to non-parties and published in a Government Gazette, non-party employers

may apply for exemption. Non-party employers will be required to submit their applications for exemption to their respective Regional Bargaining Council Offices, in accordance with the relevant provision of the Bargaining Council's Exemptions Policy attached as Annexure J.

(c)(iii) In the second and third year of the Agreement (i.e. 1 July 2018 to 30 June 2019 and 1 July 2019 to 30 June 2020), party employers will be required to submit their applications for exemption to their respective Regional Bargaining Council Offices, in accordance with the relevant provision of the Bargaining Council's Exemptions Policy attached as Annexure J, by no later than 31 July 2018 and 31 July 2019 respectively.

2. **by inserting** a new clause 23(1)(e) as follows:

"An application for exemption from the provisions of the collective agreement shall be decided within 30 days."

3. **by inserting** new clauses 23(5)(e): **Criteria for exemption**

"(a) The exemptions board must consider:

- (i) The financial hardship of the applicant for exemption;*
- (ii) The potential impact of exemption on the collective bargaining process;*
- (iii) Whether alternatives to exemption were considered or implemented;*
- (iv) The need to avoid retrenchments;*
- (v) Any other factors.*

4. **by amending clause 23(5)(d) to remove reference to and (d).**

5. **by amending clause 23(5)(c) as follows:**

*"In considering an appeal the Board shall consider the recommendations of the Council, any further submissions by the employers or employees and shall take into account the criteria **set out in sub-clause 23(2) and 23(5)(e)** and also any other representations received in relation to the application."*

6. **by amending** Annexure 3, IEAB Constitution, Part 1(4)(4.1)(4.1.1) *the criteria set out in clause 23(2) **and 23(5)(e)** of the Main Agreement of the Council*

7. **by amending clause 21 of the Constitution of the Independent Exemptions Appeal Board (Part 3) (page 313) as follows:**

"21. Findings and reason for decision

21(1) The Board shall decide an appeal as soon as possible and not later than 30 days after the appeal is lodged. The Board must provide the convenor with a written decision on the appeal and with brief reasons for that decision.

21(2) The convenor must circulate the Board's decision and the reasons to all interested parties."

8. **by amending clause 28(3) of the Agreement as follows:**

"Enforcement of this Agreement by a designated Agent shall be in accordance with clause 36 of the Agreement."

9. **by amending clause 36(2) of the Agreement as follows:**

"For the purposes of sub-clause (1) above the Council shall follow the procedure set out in the Metal and Engineering Industries Dispute Resolution Agreement, as amended."

10. **by deleting clause 50. *Outstanding items.***

11. **by inserting a new clause 42(7): *For the purposes of this clause, 'child' means a person who is under 18 years of age.***

12. **by amending the 1 July 2017 to 30 June 2018; 1 July 2018 to 30 June 2019 and 1 July 2019 to 30 June 2020 Wage Tables contained in Annexure H: Construction Sites Covered by a Project Labour Agreement, to be in-line with the 2017/ 2020 Settlement Agreement concluded by the Parties.**

13. **by amending under *Matters Regulated Under This Licence of Exemption* (p294) item 1(A)(f)(i) to read: *A contribution to the Metal and Engineering Industries Bargaining Council's Provident Fund Collective Agreement, as amended, of the employees' pensionable remuneration.***