



# SAEFA

SA ENGINEERS AND  
FOUNDERS ASSOCIATION

15 November 2020

Department of Employment and Labour  
Directorate: Collective Bargaining  
Attention: Mrs A Wasserfall  
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Pretoria  
0001  
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Dear Madam,

**RE: SAEFA REPRESENTATIONS IN RESPONSE TO THE NATIONAL UNION OF METALWORKERS OF SOUTH AFRICA'S APPLICATION FOR RENEWAL AND EXTENSION OF THE METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL'S REGISTRATION AND ADMINISTRATION EXPENSES COLLECTIVE AGREEMENT IN TERMS OF SECTION 32A OF THE LABOUR RELATIONS ACT**

The South African Engineers and Founders Association (SAEFA) is an employers association representing the interests of 272 employers in the metal industry, who in turn employ approximately 20 000 employees. SAEFA is duly registered with the Metal and Engineering Industries Bargaining Council (MEIBC) and wishes to make the following submission resisting the renewal and extension of the MEIBC's Registration and Administration Expenses Collective Agreement, for the following reasons:

The MEIBC is in a precarious financial situation which has been caused by the parties' reluctance to engage meaningfully with one another on matters concerning the industry and the Council, including the funding arrangements which provide for the Council's functioning. As the DEL is well aware, the MEIBC provides a dispute resolution service to the industry as well as an administrative and regulatory function.

The Centre for Dispute Resolution (CDR) is funded by a Dispute Resolution Levy ("Dispute Levy") payable by all employees engaged in the industry, whereas the administrative and regulatory function is funded by an Administration Expenses Levy ("Admin Levy"). SAEFA is of the view that the money collected through the separate levies ought to be used exclusively for the function that each particular levy is intended for. In other words, Admin Levy money ought to be used for registration and administration expenses and the Dispute Levy money ought to be used to fund the CDR. The cross-subsidising of one function with money collected for the other is neither sustainable nor ethical.



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This point of view was first brought to the attention of the MEIBC and its parties in or around 2011. Some of the parties, including the National Union of Metalworkers of South Africa (NUMSA), were opposed to the renegotiation of the funding arrangements of the MEIBC and so simply negotiated with some of the employer organisations registered with the Council to renew the 2011 Registration and Administration Expenses Agreement. In doing so, the other parties to the MEIBC were prevented from negotiating a reasonable increase in levies to adjust for inflation, amongst other things. This meant that the MEIBC was left to provide services to the industry for the next several years without ever being able to increase funding.

Unsurprisingly, this led to the MEIBC becoming insolvent and being placed under administration by the Labour Court in 2017. The Council's only respite prior to 2017 and subsequently, has been the illegal use of funds namely, the funds due to parties from a Central Bargaining Levy amounting to just shy of R10m and interest earned on CBL Funds held on call which is owed to employees which was incorrectly deducted.

Following the Council being placed under administration, the parties engaged in negotiations around separate collective agreements to underpin the levy structure. A Registration and Administration Expenses Collective Agreement was negotiated to provide for an adjusted Admin Levy and a Dispute Resolution Collective Agreement was negotiated to provide for an adjusted Dispute Levy.

The Dispute Resolution Agreement provides as its core objective the *exclusive* funding of a dispute resolution centre and furthermore provides that:

“The contributions collected by Council in terms of this agreement shall be for the exclusive use of all dispute resolution functions of the Council and shall be maintained in a separate account and accounted for separately.”

Despite commitments from all the parties to the MEIBC and the Council itself to account for these two Levies separately, the Council has failed to do this and continues to cross subsidise its administrative expenses with dispute resolution money. This, in turn, has led to further disputes between the parties to the Council and the failure to renegotiate current collective funding agreements.

As the DEL is well aware, the same 2011 funding agreement of the Council was renewed and extended in 2019, yet no attempt has been made by the applicants to renegotiate the funding agreements of the Council in the last year.



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If the DEL is to continuously entertain the renewal and extension of the 2011 funding agreement of the Council, not only will it be ensuring a repeat of actions that very nearly led to the winding up of the Council, but it will, in fact, ensure its demise, as no Council can continuously provide services in 2020 and beyond with the same funding that it received nearly a decade ago.

We therefore submit that the Registration and Administration Expenses Collective Agreement in its current form ought not to be renewed, so that the parties to the MEIBC can implement proper measures to ensure its sustainability going forward, namely sufficiently set Admin and Dispute Levies that are properly accounted for.

Yours sincerely,

Gordon Angus  
SAEFA Executive Director