

**METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL
(MEIBC)**

DEFAULT PICKETING RULES

The parties to the dispute giving rise to the strike/lockout are –

All Employer Parties who are members of the MEIBC

**THE STEEL ENGINEERING INDUSTRIES FEDERATION OF SOUTHERN AFRICA
(SEIFSA) AND ITS 18 ASSOCIATIONS**

SOUTH AFRICAN ENGINEERS AND FOUNDERS ASSOCIATION (SAEFA)

NATIONAL EMPLOYERS' ASSOCIATION OF SOUTH AFRICA (NEASA)

CONSOLIDATED EMPLOYERS' ORGANISATION SOUTH AFRICA (CEOSA)

KWAZULU NATAL ENGINEERING INDUSTRIES ASSOCIATION (KZNEIA)

CAPE ENGINEERS AND FOUNDERS' ASSOCIATION (CEFA).

And

All Labour Parties who are members of the MEIBC

NATIONAL UNION OF METALWORKERS OF SOUTH AFRICA (NUMSA)

UNITED ASSOCIATION OF SOUTH AFRICA (UASA)

THE SOUTH AFRICAN EQUITY WORKERS ASSOCIATION (SAEWA)

METAL AND ELECTRICAL WORKERS UNION OF SOUTH AFRICA (MEWUSA)

SOLIDARITY

(Herein after referred to as "Parties")

1. PREAMBLE

1.1 Whereas the parties have reached deadlock over a mutual interest dispute. The unions have indicated its intention to exercise its right in terms of Section 64 of the Labour Relations Act (LRA), Act 66 of 1995. In pursuance thereof, the unions further indicated its intention to stage pickets at all employer premises who are members of the MEIBC. The employers have accordingly indicated in the event of a strike they would pursue a lockout.

1.2 In order to stage pickets at employer's premises, Section 69 of the LRA requires a set of rules to regulate the conduct of the parties during the picket.

1.3 The parties in terms of the provisions of Section 69 of the LRA, were unable to reach consensus on the provisions regulating the picket. Should the parties fail to reach consensus on the contents of the rules, the LRA requires the CCMA to establish the rules. These rules are therefore issued in terms of Section 69 (5) of the LRA.

1.4 The Constitution of the Republic of South Africa (Section 17) recognizes the right to assemble, to demonstrate, to picket and to present petitions peacefully and unarmed. The Labour Relations Act 66 of 1995 (herein referred to as "The LRA") develops and seeks to give effect to this right. Section of the LRA provides a registered trade union the right to authorise a picket by its members and supporters for purposes to demonstrate peacefully.

(a) In support of any protected strike; or

(b) In opposition to any lock out

1.5 These Default Picketing Rules (herein after referred to as "Rules") determined by CCMA Senior Commissioner Shamain Dadabhai.

2. OBJECTIVES OF THE PICKETING RULES

2.1 These Rules are binding on the parties to the dispute and their officers, officials, members, and supporters.

2.2 These Rules must be interpreted in accordance with-

2.3 Section 17, 18 and 23 of the Constitution of the Republic of South Africa, 1996 which guarantees the right to picket peacefully and unarmed;

2.4 Section 69 of the Labour Relations Act, 66 of 1995 (the LRA), which regulates the right of members and supporters of a registered trade union to picket;

2.5 Clause 33 of the Code of Good Practice Collective Bargaining. Industrial Action and Picketing (Codes);

2.6 The applicable Regulations issued in terms of section 27 (2) of the Disaster Management Act, 57 of 2002 (the DMA).

2.7 Where the Rules are silent, the relevant provisions of the Constitution, the LRA, the DMA and the Codes apply.

2.8 The meaning of terms defined in the LRA apply to the use of the terms in these Rules unless the context indicates otherwise.

2.9 The intention and purpose of these rules is to set down principles and procedures which shall govern the relationship between the parties in respect of the picket and related actions taking place because of a protected industrial action and or lockout initiated by the parties.

2.10 Where the Rules are silent, the relevant provisions of the Act and the Code apply.

3. CODE OF CONDUCT

All parties are required to commit themselves to conducting any picket and lockout related actions in a responsible and peaceful manner, behaving with dignity and decorum, and ensuring that the provisions of these rules are complied with by the constituents. The parties further are required to commit themselves to resolving any dispute relating to these rules by following the dispute resolution procedures in Clause 17 hereunder. These rules include: -

3.1 participation in the lockout and the picket is voluntary and no employee will be pressurised into taking part;

3.2 only employees of the company and specifically designated officials of the unions may take part in the picket. Should the union wish to involve "secondary picketers" the parties agree, once the unions have followed the correct processes in terms of the law in regard to a "secondary picket", to apply the terms of these picketing rules;

3.3 no employee will be discriminated against, or victimised for participating in in the picket relating to such protected lockout;

3.4 company representatives will always conduct themselves in a fair and reasonable manner;

3.5 employees, be they union members or company representatives, will not participate in acts of violence and/or intimidation, and respect the constitutional rights of others;

3.6 locked out employees are to obey the relevant union official/s instructions, provided such instructions are not in contravention of the company's disciplinary rules or in terms of these rules;

3.7 the company's normal disciplinary rules will apply throughout the strike and or lockout and any employee breaching such rules will be subject to a disciplinary inquiry;

3.8 employees not participating in the strike and or lockout will not be prevented from working nor will vehicle/visitors entering or leaving the company premises be prevented from so doing;

3.9 entrances to the company premises will not be blocked off by any of the parties, other than for normal security reasons as currently in place;

3.10 no one may be in possession of or use weapons or arms, alcohol or drugs during the course of a picket or any other action in furtherance of the protected strike and or lockout;

3.11 all both parties will not engage in activities which may cause or lead to the damage of any property or equipment. All areas occupied by striking and or lockout employees are to be kept in a neat and tidy manner;

3.12 no activities which hinder production/delivery/receiving processes may be undertaken by any striking/locked out employee;

3.13 designated union official/s are expected to communicate the contents of these rules to the union's members and/or their supporters and to encourage them to behave in accordance with these rules. The company provides a similar undertaking in respect of management members and non-locked out employees.

4. PURPOSE OF THE PICKET

4.1 The only purpose of the picket is to approach and peacefully seek to persuade the following persons to support the strike or oppose the lockout by temporarily withholding their services from, supplying goods and materials to, or working for the employer's:

4.1.1 service providers, clients, and customers of the employer;

4.1.2 members of the public; and

4.1.3 employees who are not on strike (other than essential or minimum services employees) and replacement workers.

5. LOCATION OF PICKET AND NUMBER OF PICKETERS

5.1 Where the circumstances permit, the picketers may not come closer than 8 meters from the employer's entrance and/or exit gates. Where municipal or national roads run past the employer's premises, picketers may not within 1 (one) meter of the curb of each road.

5.2 Where the unique location of an employer's business premises do not lend itself for compliance with (a) above, which may be as a result of, *inter alia*, that there is an unreasonably small area to picket, or where such picket may occur in front of other companies' premises, the parties may enter into site-specific agreements, or a party may apply to the CCMA Commissioner who determined these Rules for site-specific Picketing Rules.

5.3 A picket may with the permission of the employer, take place inside the employer's premises.

5.4 The employer shall serve the trade union with written confirmation in respect of a picket to be carried out on the employer's premises, of-

- i) The designated picketing area(s) to be agreed upon with the union.
- ii) The designated picket area(s) will be in accordance with the locality/site of each plant and not uniform to all plants (i.e., site specific).
- iii) The specific health and safety rules to be observed before, during and after the picket unreasonably small area to picket, or where such picket may occur in front of other companies' premises, the parties may enter into a site-specific agreement, or a party may apply to the CCMA for site-specific picketing rules.

5.6 This is in line with section 69(5) and (6) of the LRA, clauses of the Code and any relevant court decision.

5.7 A picket may only be held at the places designated in Annexure 1.

5.8 only members and supporters of the strike may take part in the picket.

5.9 a picket at any designated location may not exceed the maximum number of members or supporters determined by the Commissioner in the Annexure 1.

5.10 The number of picketers is addressed under Annexure 1.

5.11 All of Clause 5 above in accordance with the DMA and Covid-19 Regulations.

6. DURATION AND TIME OF PICKET

6.1 The picket may only commence at or after the commencement of the strike or lockout.

6.2 The picket may only take place during daylight hours, particularly taking the DMA and Covid-19 level 1 Lockdown Regulations into consideration.

6.3 In the event the employer works night shift, or the picket is rendered ineffective because the employer has arranged for its suppliers, customers, and clients to enter the premises at night. Accordingly, all parties to be mindful of the DMA and Covid-19 level 1 Lockdown Regulations.

7. PICKETING RULES

In the circumstances where a picket is necessary, the parties undertake to discharge their responsibilities in respect of such a picket in terms of the rules and conditions contained in these Rules.

7.1. Peaceful and lawful demonstration

7.1.1. The purpose of the picket must be to carry out a peaceful demonstration in accordance with Clause 1.4 (a) and/or (b) above

7.1.2. A picket may not interfere with the constitutional rights of other persons

7.1.3. Members of the union, non-union members and union supporters may participate in the picket

7.2. Picketing Administration Rules

7.2.1. The union will appoint a Convenor who is the member or Official to oversee the picket.

7.2.2. The Convenor will at all times during the picket have copy of Section 69 of the LRA and a copy of this Default Picketing Rules.

7.2.3. The Employer must provide the Convenor with the name, address and telephone number of the person appointed to represent the employer in the matter related to the picket.

7.2.4. The trade union Marshalls to monitor the picket. The Marshalls will have the telephone numbers of the Convenor, or the person appointed to oversee the picket in the absence of the Convenor.

7.2.5. The Marshalls must wear arm bands or vests to identify themselves as Marshalls

7.2.6. The Marshalls will be present from the start to the end of each day of the picket

7.2.7. Convenors will be allowed to hand out pamphlets to the public, customers, or non-striking workers. For that purpose, the distance referred to in paragraph

7.3.1 do not apply to such Convenors. The name and contact details of the Convenor will be supplied to the employer.

7.2.8. The trade union must instruct the Marshalls on the picketing rules contained in this agreement to ensure that the picketing is conducted peacefully.

7.2.9. Striking employees may actively and proactively encourage/persuade non-striking employees and members of the public to join the strike and pickets and this shall not be seen as intimidation.

7.2.10. Facilities

(a) Access shall be provided to employees (who are employed at a particular establishment) to water and toilets facilities, which access will not be unreasonably withheld. Where this is not possible, employers need to agree on a method of providing water and toilets to the striking employees. Employers have the right to control the number of people entering its premises.

(b) Employer shall make telephone, email, and fax facilities available to officials and union shop steward in order to allow them to communicate with the union office and employer.

7.3. Nature and Conduct of Picket

7.3.1. Picketer's Conduct

7.3.2. may carry placards

7.3.3. chant slogans, sing and dance and

7.3.4. be addressed by union officials and supporters; and

- 7.3.5. wear trade union T-shirts, hats, caps, badges and other paraphernalia
- 7.3.6. approach and peacefully engage suppliers, clients, customers, employees (other than essential or minimum service employees) and replacement workers not to enter the premises and support the strike or oppose the lockout.
- 7.3.7. Any limitations on the activities listed in Clause 5 in respect of specific locations are detailed in Annexure A – specifically limiting the activity of a picket in a shopping mall or business complex to carrying placards and handling out pamphlets.
- 7.3.8. Picketers must not –
- 7.3.9. In performing the activities contemplated in Clause 7.3.7 use hate or defamatory speech or incite violence.
- 7.3.10. Forcefully prevent or appear to prevent suppliers, clients and customers of the employer, members of the public, employees who are not on strike and replacement workers from entering or leaving the premises or any part of the premises of the employer.
- 7.3.11. Commit any unlawful action, such as intimidating, coercing, threatening or assaulting any person or causing or threatening to cause any damage to any property whether belonging to the employer or not.
- 7.3.12. Wear masks only as directed in terms of the DMA and Covid-19 Regulations.
- 7.3.13. Cause damage to property
- 7.3.14. Have any dangerous weapons or objects in their possession.

- 7.3.15. The employer must receive a *memorandum* as and when invited to so by picketers.
- 7.3.16. Liaise with the Convenor, Shop stewards, Marshalls, and Union Officials to ensure compliance with this Default Picketing Rules.
- 7.4. For the purpose of these Rules, dangerous objects or weapons includes any object that could be used to injure or threaten a person or damage property. In context of a picket there is no other justifiable use for the possession or display of such object, particularly of the following objects:
- 7.4.1 Knives, spears, pangas, bush knives or any similar object;
- 7.4.2 Sticks and knobkieries whether made of metal or wood;
- 7.4.3 Whips and sjamboks;
- 7.4.4 Bricks, stones or any similar object that can be thrown or propelled in a manner that can cause injury or damage to property;
- 7.4.5 Any inflammable substance;
- 7.4.6 Any liquid, foam or similar substance that can be sprayed or extruded to cause injury or damage to property.
- 7.4.7 Any limitations on the activities listed in Clause in respect of specific locations are detailed in Annexure A.

8. CONTROL OF PICKETS

- 8.1. Union officials and managers are accountable and should be available to resolve problems may the need arise.
- 8.2. The name and contact details of the CCMA OFFICIAL responsible for the administration of these Rules is set out in Annexure B.
- 8.3. The names and contact details of the trade union convenor/s of the picket and the employer representative/s are listed in Annexure B.
- 8.4. The convenor/s of the picket is responsible for overseeing the picket and ensuring that the picket complies with these rules.

- 8.5. The trade union must appoint one Marshal for every ten picketers to monitor and control the picket at each designated location. The full names and contact details of the marshals are listed in Annexure 1.
- 8.6. The convenors, marshals and employer representatives must be present from the start to the end of the picket each day.
- 8.7. The convenor, the marshals and the employer representative must-
 - 8.7.1. at all times during the picket have a copy of these Rules in their possession;
 - 8.7.2. wear the armbands or vests described in Annexure B to identify themselves as convenors or marshals; and
 - 8.7.3. be present from the start to the end of each day of the picket.
- 8.8. The names and telephone numbers of the convenor and marshals must be set out in Annexure B.
- 8.9. Any change to a convenor, employer representative and marshal must be sent by a text message to the persons listed in Annexure B.
- 8.10. The trade union must ensure that its members and supporters who participate in a picket wear the identification described in Annexure B.
- 8.11. The trade union must train its convenors and marshals on the Code and the Rules and their responsibilities to ensure a lawful and peaceful picket.

9. EMPLOYER'S CONDUCT

- 9.1. The employer or any person in authority at the workplace or acting on the employer's behalf including its client may not –
 - 9.1.1. in any way hinder or obstruct the lawful and peaceful conduct of the picket;
 - 9.1.2. undermine any employee's right to participate in the picket lawfully and peacefully or discipline or threaten to discipline any employee for peacefully and lawfully doing so;
 - 9.1.3. engage in or permit conduct which is provocative or may incite conflict; or
 - 9.1.4. carry a dangerous weapon of any kind while in contact with the picketers.
 - 9.1.5. use hate or defamatory speech or incite violence

- 9.2. The employer must ensure that any private security company employed by the employer complies with the requirements relating to such companies under the Code of Good Practice on Collective Bargaining and Industrial Action.
- 9.3. The employer must ensure reasonable access to toilet facilities and drinking water to persons participating in a picket

10. PICKETING ON EMPLOYER'S PREMISES OR IN OTHER DESIGNATED AREAS

- 10.1. If picketing is to take place on the employer's premises or other designated areas, the employer must, where applicable provide the trade union with written confirmation of the health and safety rules to be observed before, during and after the picket.
- 10.2. Participants in a picket on the employer's premises or in any other designated area must, in addition to the requirements set out in Clauses 7, 8 and 9 above;
- 10.3. remain within the designated picketing area(s);
- 10.4. observe the health and safety rules and regulations applicable in the workplace;
- 10.5. refrain from causing any damage to property or allowing any damage to be caused; and
- 10.6. leave the premises and the facilities in the condition in which they found it.

11. FAILURE TO COMPLY WITH THESE RULES

- 11.1. Any person may refer a dispute concerning the interpretation or application of these Rules to the Commission, who will endeavour to appoint the same Commissioner who was responsible for the conciliation of the dispute giving rise to the strike or lockout and these Rules.
- 11.2. The Labour Court may suspend a picket at one or more designated locations if these Rules have not been complied with in terms of section 69(12)(c) of the Act.

12. COMPANIES OPERATING WITHIN A COMPLEX

- 12.1 Picketing places within complexes /Unit Parks may be agreed between employers and employees at that specific site or locality.
- 12.2 Where employers conduct business on property owned by a landlord, striking workers may not picket on the property of such landlord unless the landlord has given such permission.
- 12.3 Where, as a result of circumstances contained in paragraph 4.2 above a union is of the view that its objectives in terms of its picketing is curtailed/prejudiced it may apply to the CCMA Commissioner who determined these Rules for site-specific picketing rules.

13. POLICE INVOLVEMENT

- 13.1. Parties undertake to cooperate with the police in the lawful conduct of their duties in respect of the picket and in compliance with Cause 7 of the Code of Good Practice on Picketing, as contained in the LRA.
- 13.2. These Rules do not affect the right of any person to ask the South African Police Service or any security organisation responsible for maintaining safety and security at or near the workplace to investigate or deal with any unlawful conduct or alleged unlawful conduct.
- 13.3. If this happens, the employer and the union undertake to co-operate with the police or security organisation in the performance of their duties and the union undertakes to do everything possible to ensure that its members and supporters will do the same.
- 13.4. It is not the function of the police to take a view of the merits of a particular strike or lockout. Their role is to uphold the law and keep the peace. The law does however give the police the power to take measures that may be reasonably necessary to ensure that a strike and picket remains peaceful, unarmed, and orderly.
- 13.5. Accordingly, parties shall all material times be mindful of the DMA, the LRA and the Covid-19 Level 1 Regulations.

14. TERMINATION

These Rules will remain in effect and binding on the parties until the settlement MEIBC 2021 dispute, the termination of the strike, termination of the picket by the union or until it is terminated or reviewed by mutual agreement, or set aside by the Labour Court, whichever may come first.

15. SERVICE OF NOTICES

The parties elect the *domicilia* of the convenors mentioned in Annexure 2 as the address at which all notices in terms of these rules will be served on each other.

16. DISSEMINATION OF THESE RULES

It is the duty of the applicant union to ensure that a copy of these rules is forwarded to its marshals / convenors and the officer commanding the local South African Police Service (SAPS).

17. DISPUTE RESOLUTION

- 17.1. Any dispute about the interpretation or application of these Rules or any alleged breach thereof shall be dealt with in accordance with section 69(8), (9), (10) and (11) of the Act or section 158(1)(g) of the Act.
- 17.2. Any party to this agreement may request an urgent arbitration before referring a matter to the Labour Court in terms of section 69 (11) of the LRA
- 17.3. This does not affect any other right that any person may have in terms of the Act or any other law.
- 17.4. Nothing in these Rules prevents either party from seeking urgent relief in the Labour Court.
- 17.5. It is recorded that the employer, the union, and persons taking part in the picket are subject to the protections and provisions set out in section 67 of the Act.

Annexure 1 - Description of place or places for the picket

Addresses and location/s of pickets and number of picketers

Address/es or location of the picket, as agreed between the parties: -

Background

The employer operates many operating units / companies / plant / distribution centre throughout the country, in excess of hundreds of sites. As such, the layout of each operating units / companies / plant / distribution centres differs from each other. It is not practically possible to determine the location of the picket at each operating unit of the employer, without conducting an Inspection-In-Locho at each unit. The parties should therefore agree that the employer's operating units / companies / plant / distribution centres would be grouped into four (4) main categories, i.e.: -

- 1. Mall / shopping centre**
- 2. Strip malls located on a busy main road**
- 3. Street Facing plants**
- 4. Head office / distribution centres / operating units / companies / plants.**

Physical location of pickets at each address operating units / company / plant / distribution centres.

The location of the picket at each operating units / company / plant / distribution centres.

will be determined in terms of the following criteria: -

- 1. Operating unit / companies / plant / distribution centre where the union has membership**

The parties agree that the union shop steward / official will engage with the employer representative to determine the location of the picket,

- 2. Operating unit / companies / plant / distribution centre where the union does not have membership**

The parties agree that the union will allocate a union official or office bearer, who will engage with the employer representative to determine the location of the picket. The union agrees to communicate the name and position of the allocated official to the national representative of the employer. The union further agrees to communicate the date and times

that it proposes to meet with the employer representative to determine the location of the picket.

3. Should the parties fail to agree on the location of the picket in terms of Clause 1 and 2 above, they agree to first attempt to resolve such dispute between themselves, by referring such dispute to the national representatives of each party.

Thereafter, should they fail to resolve such dispute, the parties agree to refer the dispute to the CCMA Commissioner issuing these Rules, for final determination, in terms of the provisions of the LRA.

This referral to the CCMA, could include an Inspection-In-Locho and/ or digital footage and/ or arial views.

No pickets will be staged in disputed locations, until such time as the final determination issued by the CCMA is applied.

4. The parties agree to finalise the process detailed in clause 1 and 2 above within thirty (30) days from the date of issue of these Rules.

Activity to be restricted as per Clause 8 above.

Duration and times of pickets - Date/s and times that pickets may be held at each address and physical location

Address /physical location, times of Pickets (hours during which pickets may be held)

The employer operating units / companies / plant / distribution centres throughout the country on a seven (7) days per week basis. As such pickets may only be staged at demarcated zones/ locations on seven (7) days per week.

Pickets may only be staged during daylight hours.

Annexure 2 - Names and details of participants

Commissioner

1. Shamain Dadabhai. Email: shamain@telkomsa.net / attorney@shamain.co.za
2. Cell: 072 211 3181

MEIBC

Zinzi Gumedi – Manager Dispute Resolution

Tel: +27 11 639 8000 / 8049

e-mail: zinzig@meibc.co.za

Convenor

[Name, designation of status, email address, work number and mobile telephone number]

Employer representative

[Name of person appointed in terms of Clause 8, designation of status, email address, work number and mobile telephone number. **Must be provided by employer before the commencement of the picket.**

Union representative

[Name of person appointed in terms of Clause 8, designation of status, email address, work number and mobile telephone number. **Must be provided by trade union before the commencement of the picket.**

Marshalls

Names and contact details to be provided by the Union before the commencement of the picket.

[Name, work number, fax number, mobile telephone number and email address]

[Name, work number, fax number, mobile telephone number and email address]

[Name, work number, fax number, mobile telephone number and email address]

[Name, work number, fax number, mobile telephone number and email address]

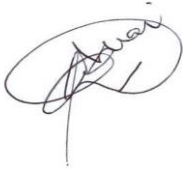
The union shall elect Marshalls in terms of Clause 8 of these picketing rules and furnish the names of such elected Marshalls to the Convenor appointed by the employer, prior to the commencement of the picket at each location.

Marshalls must be clearly identifiable by the use of arm bands or reflective jackets.

These Rules are issued in terms of Section 69 (5) of the LRA.

Thus signed and dated at **JOHANNESBURG** on this the **03RD** day of **OCTOBER 2021**

Issued by:

A handwritten signature in black ink, appearing to read 'Shamain Dadabhai', enclosed within a hand-drawn oval. A vertical line extends downwards from the bottom of the oval.

Shamain Dadabhai
CCMA Senior Commissioner