

No. R. 961

9 October 2009

LABOUR RELATIONS ACT, 1995**METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL:
EXTENSION TO NON-PARTIES OF DISPUTE RESOLUTION COLLECTIVE
RE-ENACTING AND AMENDING AGREEMENT**

I, MEMBATHISI MPHUMZI SHEPHERD MDLADLANA, Minister of 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 Metal and Engineering Industries 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 from19 October 2009..... and for the period ending 31 March 2010.

**MMS MDLADLANA
MINISTER OF LABOUR**

SCHEDULE**METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL
DISPUTE RESOLUTION AGREEMENT**

in accordance with the provisions of the Labour Relations Act, No. 66 of 1995, made and entered into by and between the -

Association of Electric Cable Manufacturers of South Africa

Association of Metal Service Centres of South Africa

Bright Bar Association

Cape Engineers' and Founders' Association

Consolidated Association of Employers of Southern Africa Region (CAESAR)

Constructional Engineering Association (South Africa)

Covered Conductor Manufacturers' Association

Electrical Engineering and Allied Industries' Association

Electrical Manufacturers' Association of South Africa (EMASA)

Electronics and Telecommunications Industries Association

Federated Employers' Organisation of South Africa (FEOSA)

Ferro Alloy Producers' Association

Gate and Fence Association

Hand Tool Manufacturers' Association (HATMA)

Iron and Steel Producers' Association of South Africa (ISPA)

KwaZulu Natal Engineering Industries' Association

Lift Engineering Industries' Association of South Africa

Light Engineering Industries Association of South Africa

National Employers' Association of South Africa (NEASA)

Non-Ferrous Metal Industries' Association of South Africa

Plastics Convertors Association of South Africa

Plumbers and Engineers Brassware Manufacturers' Association

Port Elizabeth Engineers' Association

Pressure Vessel Manufacturers' Association of South Africa

Radio, Appliance and Television Association of South Africa (RATA)

Refrigeration and Air Conditioning Manufacturers' and Suppliers' Association (RAMSA)

Sheet Metal Industries' Association of South Africa

South African Electro-Plating Industries Association

South African Engineers' and Founders' Association

South African Fasteners Manufacturers' Association

South African Refrigeration and Air Conditioning Contractors' Association (SARACCA)

South African Post Tensioning Association (SAPTA)

South African Pump Manufacturers' Association

South African Reinforced Concrete Engineers' Association (SARCEA)

South African Valve and Actuators Manufacturers' Association (SAVAMA)

(hereinafter referred to as the "employers" or the "employers' organisations"), of the one part
and the —

Chemical, Energy, Paper, Printing, Wood and Allied Workers' Union (CEPPWAWU)

Metal and Electrical Workers' Union of South Africa

Solidarity

United Association of S.A. (UASA The Union)

National Union of Metalworkers of South Africa (NUMSA)

South African Equity Workers' Association (SAEWA)

(hereinafter referred as the "employees" or the "trade unions") of the other part, being the
parties to the Metal Engineering Industries Bargaining Council, to amend the Agreement

published under Government Notice No. R. 836 of 18 August 2006, as re-enacted by Government Notice No. R. 418 of 17 April 2009.

1. SCOPE OF APPLICATION OF AGREEMENT

- (1) The terms of this Agreement shall be observed in the Iron, Steel, Engineering and Metallurgical Industry —
 - (a) by all employers who are members of the employers' organisations and by all employees who are members of the trade unions;
 - (b) throughout the Republic of South Africa.

- (2) Notwithstanding the provisions of subclause (1), the terms of this Agreement shall apply to —
 - (a) apprentices or learners only to the extent to which these provisions are not inconsistent with the provisions of the Manpower Training Act, 1981, or the Skills Development Act, No. 97 of 1998, or any contract entered into or any conditions fixed thereunder; and
 - (b) trainees under training in terms of section 30 of the Manpower Training Act, 1981, or section 19 of the Skills Development Act, No. 97 of 1998, only in so far as these provisions are not inconsistent with the provisions of the Act or any conditions fixed thereunder.

- (3) Notwithstanding the provisions of clauses 1(1)(a) and 2, this Agreement shall not apply to employers and employees who are not members of the employers' organisations and trade unions, respectively.

2. PERIOD OF OPERATION OF AGREEMENT

This Agreement shall come into operation on such date as may be fixed by the Minister of Labour in terms of section 32 of the Labour Relations Act, 1995, and shall remain in force until 31 March 2010.

3. SPECIAL PROVISIONS

The provisions contained in clause 2 of the Agreement published under Government Notice No. R 418 of 17 April 2009 (hereinafter referred to as the "Former Agreement"), as further amended and re-enacted from time to time, shall apply to employers and employees.

4. GENERAL PROVISIONS

The provisions contained in clauses 3 to 6 of the Agreement published under Government Notice No. R. 418 of 17 April 2009 (as further amended and re-enacted from time to time) shall apply to employers and employees.

5. ANNEXURE A:

RULES FOR CONCILIATING AND ARBITRATING DISPUTES IN THE METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL

1. Arrangements of Rules (Index)

Under Part B; "Conciliation of Disputes" delete rule 10.

2. Part B. Conciliation of Disputes

Delete Rule 10.

3. Part E: Rules that apply to Conciliations and Arbitrations and Con-Arbs

Substitute the following for Rule 17.

“17. Who may represent a party at the Council

- (1) In conciliation proceedings a party to the dispute may appear in person or be represented only by -
- (a) A director or employee of that party and, if a close corporation, also a member thereof; or
 - (b) A member, official or office bearer of a registered employers' organisation or registered employers' federation representing registered employers' organisations party to Collective Agreements concluded by, or under the auspices, of the Metal and Engineering Industries Bargaining Council;
 - (c) any member, office bearer or official of that party's registered trade union or registered employers' organisation.
- (2) In any arbitration proceedings, a party to the dispute may appear in person or be represented only by —
- (a) a legal practitioner;
 - (b) a director or employee of that party and, if a close corporation, also a member thereof;
 - (c) a member, official or office bearer of a registered employers' organisation or registered employers' federation representing registered employers' organisations party to Collective Agreements concluded by, or under the auspices of, the Metal and Engineering Industries Bargaining Council;
 - (d) any member, office bearer or official of that party's registered trade union or registered employers' organisation.

- (3) If the dispute being arbitrated is about the fairness of a dismissal and a party has alleged that the reason for the dismissal relates to the employee's conduct or capacity, the parties, notwithstanding subrule 2(a), are not entitled to be represented by a legal practitioner in the proceedings unless -
- (a) the commissioner and all the other parties consent;
 - (b) the commissioner concludes that it is unreasonable to expect a party to deal with the dispute without legal representation, after considering –
 - (i) the nature of the questions of law raised by the dispute;
 - (ii) the complexity of the dispute;
 - (iii) the public interest; and
 - (iv) the comparative ability of the opposing parties or their representatives to deal with the dispute.”.
- (4) Substitute the following for rule 22, “What happens if a Party fails to attend proceedings before the Council.
- “22 What happens if a party fails to attend proceedings before the Council**
1. If a party to a dispute fails to attend in person or be represented at Arbitration or Con-Arb proceedings before the Council, and that party -
- (a) has referred the dispute to the Council, a council commissioner may dismiss the matter by issuing a written ruling; or
 - (b) has not referred the matter to the Council, the council commissioner may –
 - (i) continue with the proceedings in the absence of that party;
- or

- (ii) adjourn the proceedings to a later date.
2. A council commissioner must be satisfied that the party has been properly notified of the date, time and venue of the proceedings, before making any decision in terms of subrule (1).
 3. If a matter is dismissed, the Council must send a copy of the ruling to the parties.”.

Signed at Johannesburg for and on behalf of the parties this 12th day of August 2009.

L Trentini
Member

V Mabho
Member

A Smith
Chief Executive Officer