

No. R. 1037

3 October 2008

LABOUR RELATIONS ACT, 1995**MOTOR INDUSTRY BARGAINING COUNCIL – MIBCO: EXTENSION TO
NON-PARTIES OF MAIN 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 Motor Industry Bargaining Council – MIBCO, 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 from 6 October 2008 and for the period ending 31 August 2010.

M M S MDLADLANA
MINISTER OF LABOUR

SCHEDULE

MOTOR INDUSTRY BARGAINING COUNCIL - MIBCO

AMENDING MAIN COLLECTIVE AGREEMENT

in accordance with the provisions of the Labour Relations Act, 1995, made and entered into by and between the

Retail Motor Industry Organisation - RMI

and the

Fuel Retailers' Association of South Africa

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

National Union of Metalworkers of South Africa (NUMSA)

and

MISA/SAMU

(hereinafter referred to as the "employees" or the "trade unions"), of the other part, being the parties to the Motor Industry Bargaining Council (MIBCO).

PREAMBLE

1. 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 Act, and shall remain in force until 31 August 2010.

2. SPECIAL PROVISIONS

The provisions contained in clauses 17 (1) (b), 17 (1) (c) and 17 (4) of Division A, Clause 1 (3) of Division B, clause 4 (7) of Chapter II of Division C and clause 4 (6) of Chapter III of Division C, the proviso to clause 1 of Division D and Clause 3 (4) of Division D of the Agreement published under Government Notice No. R. 1362 of 26 November 2004 as re-enacted, amended, renewed and extended by Government Notices Nos. R. 1145 and 1146 of 7 December 2007 (hereinafter referred to as the "Former Agreement"), as further amended, extended, re-enacted from time to time, shall apply to employers and employees who are members of the parties to the collective agreement.

3. GENERAL PROVISIONS

The provisions contained in clauses 2 to 17 (1) (a), clauses 17 (2) and 17 (3) and clauses 18 to 39 of Division A, clauses 1 (1) to 1 (2) (b), 1 (4) to 12 of Division B, clauses 1 to 4 of Chapter I of Division C, clauses 1 to 4 (6) and clause 4 (8) of Chapter II of Division C, clauses 1 to 4 (5), clauses 4 (7) to 4 (9) and the Schedule to Chapter III, Division C, Chapters IV and V of Division C, the introduction to clause 1, clauses 2 to 3 (3), items 1 to 4 and clauses 4 to 6 of Division D of the Former Agreement (as further amended, renewed extended and re-enacted from time to time), shall apply to employers and employees.

4. MINIMUM TERMS AND CONDITIONS

Unless stated otherwise in this Agreement, it is agreed that where a particular sector has negotiated actual and/or guaranteed wage increases or any other conditions of employment, then there can be no plant level negotiations on those employment conditions or wages negotiated nationally.

5. APPLICATION OF BASIC CONDITIONS OF EMPLOYMENT ACT (Act No. 75 OF 1997)

The parties agree that whenever any amendments are effected to the sections identified by section 49(1) of the Basic Conditions of Employment Act, 1997 (No. 75 of 1997), all corresponding clauses in this Agreement shall be amended accordingly.

6. PEACE CLAUSE

- (a) The parties agree not to embark on and/or participate in any form of industrial action as a result of any dispute on wage and/or salary adjustments and other conditions of employment relating to any sector or chapter in this Agreement: Provided that an employer has implemented the wage and/or salary adjustments and other agreed conditions of employment matters on or before promulgation. Participation in any form of industrial action after promulgation of wage and/or salary adjustments and agreed conditions of employment shall be unprotected:
- (b) Provided further, that in respect of any sector 6 establishments, the parties may engage in plant-level negotiations on actual wages, which negotiations shall be governed by the provisions of the LRA and shall not be conducted under the auspices of MIBCO. In particular, this clause shall not impact on the DRC's jurisdiction to entertain disputes referred to

it, arising out of such negotiations at plant level in respect of sector 6 establishments.

DIVISION A

1. CLAUSE 1 OF THE FORMER AGREEMENT: SCOPE OF APPLICATION

- (1) The terms of this Agreement shall be observed in the Motor Industry -
 - (a) throughout the Republic of South Africa;
 - (b) by the employers and the employees in the Motor Industry who are members of the employers' organisations and the trade unions, respectively.
- (2) Notwithstanding the provisions of subclause (1), the provisions of this Agreement shall apply to -
 - (a) apprentices only in so far as these provisions are not inconsistent with the provisions of or any conditions fixed under the Manpower Training Act, 1981, and learners in terms of Chapter IV of the Skills Development Act, No. 97 of 1998; and
 - (b) trainees undergoing training under the Manpower Training Act, 1981, only in so far as these provisions are not inconsistent with the provisions of or any conditions fixed under that Act.
- (3) (a) Notwithstanding the provisions of subclauses (1) and (2), the provisions of this Agreement as set out in the Schedule to this subclause shall apply only to employees for as long as their weekly or monthly remuneration, excluding commission on sales, exceeds the

rate of R115 500,00 per annum in Area A and R98 200,00 per annum in other areas.

SCHEDULE

ADMINISTRATIVE AGREEMENT

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| Clause 5 | - | Deductions from earnings |
| Clause 13 | - | Employees' representatives on the Council |
| Clause 14 | - | Prohibition of cession of benefits |

MAIN AGREEMENT - DIVISION A

- | | | |
|-----------|---|--|
| Clause 2 | - | Definitions |
| Clause 3 | - | Termination of service |
| Clause 4 | - | Outwork |
| Clause 5 | - | Piece work and commission work |
| Clause 8 | - | Travelling allowances |
| Clause 11 | - | Sick leave |
| Clause 13 | - | Retrenchment pay |
| Clause 15 | - | Desertion |
| Clause 16 | - | Damage to vehicles or loss of property or assets |
| Clause 17 | - | Public holidays |
| Clause 26 | - | Annual leave and accrued leave pay |
| Clause 31 | - | Maternity leave |
| Clause 33 | - | Payment of earnings |
| Clause 35 | - | Certificate of service |

- (b) Notwithstanding the provisions of subclause (3)(a) of this clause or any other provisions to the contrary, employees earning in excess of R115 500,00 per annum in Area A or R98 200,00 in any other Area, excluding commission on sales, shall not be required to work overtime other than on a voluntary basis, free from any form of coercion, intimidation or victimisation.
- (4) Notwithstanding the provisions of subclause (3) of this clause, the provisions of clause 11 of the Administrative Agreement shall apply to employees who are members of MISA/SAMU or NUMSA, regardless of their earnings.
- (5) The provisions of clause 27(10) of this Division shall be applicable to all employees receiving up to R9 625,00 per month (R2 221,15 per week) excluding commission on sales in Areas A and R8 183,33 per month (R1 888,46 per week) excluding commission on sales in other areas.
- (6) Clauses 1 and 2 of the Preamble and clause 1(1)(b) of Division A shall not apply to employers and employees who are not members of the employers' organisations and trade unions, respectively.

2. CLAUSE 2 OF THE FORMER AGREEMENT: DEFINITIONS

- (1) Insert the following new definition between the definitions of "Area B (EC)" and "Area A (KZN)":

"Area C (EC)" means the Magisterial Districts of Alice, Bhisho, Centane, Cofimvaba, Engcobo, Fort Hare, Gatyana, Gcuwa/Butterworth, Hewu/Sada, Idutywa, Kalanga Cala, KwaBhaca/Mount Frere, Libode, Lusikisiki, Mdantsane, Middledrift/Keiskammahoek, Mount Fletcher, Mpofu/Seymore, Mqanduli, Ngqeleni, Ngqamakhwe, Peddie, Qumbu, Siphagani/Flagstaff, Tabankulu, Tsolo, Tsomo, Umthatha,

Umzimvubo/Port St Johns, Victoria East, Whittlesea, Xhorha, Zwelitsha, Zwentsha;".

- (2) Amend the definition of "**Area B (KZN)**" to read as follows:

"**Area B (KZN)**" means the districts and areas in the Province of KwaZulu-Natal not referred to in Area A (KZN) or Area C (KZN), and the Magisterial Districts of Mount Currie, Piet Retief and Pongola;".

- (3) Insert the following new definition between the definitions of "Area B (KZN)" and "Area A (FS & NC)":

"**Area C (KZN)**" means the Magisterial Districts of Alfred, Bizana, Embumbulu, Emnambithi, Empumalanga, Emzumbeni, Enseleni, Ezingolweni, Hlabisa, Inanda/Durban, Ingwavuma, Inkanyezi, KwaBhaca/Mount Frere, Kwamaphumulo, Mahlabatini, Maluti/Matatiele, Maxesibeni, Msinga, Ndwedwe, Newcastle, Nkandla, Nongoma, Nqutu, Ntuzuma, Okhahlamba, Ongoye, Ubombo, Umzimkhulu, Vulamehlo, Vulindlela;".

- (4) In the definition of "**Area A (FS & NC)**" delete the expression "Sasolburg".

- (5) Amend the definition of "**Area B (FS & NC)**" to read as follows:

"**Area B (FS & NC)**" means the Province of the Free State, excluding those districts and areas referred to in Area A (FS & NC) and in Area C (FS & NC), and the Magisterial Districts of Barkly West, Bloemhof, Britstown, Christiana, De Aar, Gordonia, Hartswater, Hay, Herbert, Hopetown, Kenhardt, Kimberley, Kuruman, Mafikeng, Philipstown, Postmasburg, Prieska, Schweizer-Reneke, Upington, Vryburg and

Warrenton, but excluding those municipal areas included in Area A (FS & NC);".

- (6) Insert the following new definition between the definitions of "Area B (FS & NC)" and "Area A (Highveld)":

"Area C (FS & NC)" means the Magisterial Districts of Ganyesa, Taung, Thaba Nchu and Witsieshoek/Phuthaditjhaba;"

- (7) In the definition of "Area A (Highveld)" insert the expression "Sasolburg" between the expressions "Sandton" and "Springs".

- (8) In the definition of "Area B (Highveld)" delete the expressions "Bloemhof", "Christiana", "Piet Retief", "Pongola" and "Schweizer-Reneke".

- (9) Insert the following new definition between the definitions of "Area B (Highveld)" and "Area A (Northern Region)":

"Area C (Highveld)" means the Magisterial Districts of Ditsobotla, Moloopo/Mafikeng and Setla-kgobi;"

- (10) In the definition of "Area B (Northern Region)" delete the expression "and areas referred to in Area A (Northern Region) as it existed prior to the proclamation of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993)" at the end of that definition.

- (11) Insert the following new definition between the definitions of "Area B (Northern Region)" and "Area A (WP)":

"Area C (Northern Region)" means the Magisterial Districts of Bochum, Bolobedu, Dzanani, Ga-Rankuwa, Giyani, Hlanganani, KwaMhlanga,

Lulekani, Madikwe, Mankweng, Malamulela, Mapulaneng, Mdibana, Mdutjana, Mhala, Mkobola, Mokerong, Moretele, Mpumalanga, Mutali, Namakgale, Naphuno, Nebo, Nkomazi, Nsikazi, Ritavi, Segosese, Sekhukhuneland, Seshego, Temba, Thabamooopo, Thoyandou and Vuwani;".

DIVISION C

CHAPTER I

1. CLAUSE 2 OF THE FORMER AGREEMENT: DEFINITIONS

Insert the following additional duties at the end of subclause (a) of the definition of "General Worker":

*"fitting, removing and/or replacing batteries, grease nipples, tyres, tubes, rims and road wheels;
inflating tyres and tubes;
lowering and/or raising motor vehicles by jack or hoist;
repairing punctures, including the fitting and reseating of tyre or inner tube valves;"*.

CHAPTER III

1. CLAUSE 2 OF THE FORMER AGREEMENT: DEFINITIONS

Insert the following additional duties at the end of subclause (7)(a) of the definition of "General Worker":

*"fitting, removing and/or replacing batteries, grease nipples, tyres, tubes, rims and road wheels;
inflating tyres and tubes;*

*lowering and/or raising motor vehicles by jack or hoist;
repairing punctures, including the fitting and reseating of tyre or
inner tube valves;"*.

CHAPTER V

1. CLAUSE 2 OF THE FORMER AGREEMENT: DEFINITIONS

Insert the following additional duties at the end of subclause (8)(a) of the definition of "General Worker":

*"fitting, removing and/or replacing batteries, grease nipples, tyres,
tubes, rims and road wheels;
inflating tyres and tubes;
lowering and/or raising motor vehicles by jack or hoist;
repairing punctures, including the fitting and reseating of tyre or
inner tube valves;"*.

**SIGNED AT RANDBURG ON BEHALF OF THE PARTIES, THIS 29th DAY OF
JULY 2008**

.....
B. CELE
PRESIDENT OF THE COUNCIL

.....
M. POULTNEY
VICE-PRESIDENT OF THE COUNCIL

.....
W. SCHRÖEDER
GENERAL SECRETARY