

No. R. 1205

14 November 2008

LABOUR RELATIONS ACT, 1995**LABOUR RELATIONS ACT, 1995: METAL AND ENGINEERING
INDUSTRIES BARGAINING COUNCIL: EXTENSION TO NON-PARTIES
OF THE SICK PAY FUND 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 from 24 November 2008 and for the period ending 20 November 2011.

MMS MDLADLANA**MINISTER OF LABOUR**

SCHEDULE

METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL RE-ENACTING AND AMENDING SICK PAY FUND COLLECTIVE 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 S.A.
Association of Metal Service Centres of South Africa
Bright Bar Association
Cape Engineers' and Founders' Association
Consolidated Association of Employers of South Africa (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)
Kwa-Zulu Natal Engineering Industries' Association
Lift Engineering 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
Plastic 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
Sheetmetal Industries' Association of South Africa
S.A. Electro-Plating Industries' Association
S.A. Engineers and Founders' Association
S.A. Fasteners Manufacturers' Association (SAFMA)
S.A. Refrigeration and Air Conditioning Contractors' Association (SARACCA)
S.A. Post Tensioning Association (SAPTA)
S.A. Reinforced Concrete Engineers' Association (SARCEA)
S.A. Valve and Actuator Manufacturers' Association (SAVAMA)
S.A. Wire and Wire Rope Manufacturers' Association

(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
Solidariteit / MWU – Solidarity / MWU
United Association of S.A. (UASA)
National Union of Metalworkers of South Africa (NUMSA)
S.A. Equity Workers' Association

(hereinafter referred to as the “employees” or the “trade unions”), of the other part, being the parties to the Metal and Engineering Industries Bargaining Council.

1. SCOPE OF APPLICATION OF AGREEMENT

- (1) The terms of this Agreement shall be observed –
- (a) throughout the Republic of South Africa; and
 - (b) by all employers in the Iron, Steel, Engineering and Metallurgical Industries who are members of the employers' organisations and by all employees who are members of the trade unions.
- (2) Clauses 1(1)(b), 2, 9 and 15 of this Agreement shall not apply to employers and employees who are not members of the employers' organizations 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 20 November 2011..

3. SPECIAL PROVISIONS

The provisions contained in clauses 9 and 15 of the Agreement published under Government Notices R.251 of 24 March 2006, R.1271 of 15 December 2006 and R.533 of 6 July 2007 (hereinafter referred to as “the former Agreement”) shall apply to employers and employees.

4. GENERAL PROVISIONS

The provisions contained in clauses 3 to 8, 10 to 14 and 16 to 21 of the former Agreement, shall apply to employers and employees.

5. CLAUSE 6: MEMBERSHIP

Substitute the following for subclause 6(1):

“(1) Membership of the Fund shall be compulsory for all employees employed on any of the classes of work scheduled in any Agreement in the Industries, including apprentices and employees employed in operative processes”.

6. CLAUSE 8: BENEFITS

Substitute the following for the existing clause:

8. Benefits

(1) Sick pay benefits

(a) Subject to the terms, conditions, provisions and requirements of this Agreement, a member shall be entitled to sick-pay benefits for each completed day of absence from work through illness or injury, other than injury on duty, that exceeds the member's qualification for paid sick-leave from his employer under clause 34 of the Main Agreement or under the sick-leave provisions of any other Agreement.

- (b) Sick-pay benefits shall be payable at the rate of 50 per cent of the weekly wage of the member for each completed week of absence in accordance with paragraph (a): Provided that, where the absence does not comprise a complete week, sick-pay benefits shall be calculated *pro rata* for each completed day of absence, depending on whether a five-day week or a six-day week is worked.
- (c) For purposes of calculation of the benefits the amount shall not exceed the maximum weekly wage as prescribed in the Unemployment Insurance Act (No.30 of 1966) from time to time. Should a member receive the maximum wage rate he shall receive benefits in accordance with the maximum rate.

(2) Compassionate leave

subject to the provisions of subclause 6(a), an employee shall be entitled to a maximum of three working days leave for compassionate reasons per year for which he or she shall receive full payment at his or her normal wage rate for a normal working day: Provided that where an employee has worked for part of his ordinary shift on the date on which compassionate leave is taken, the benefit payable for that day shall be reduced pro-rata.

(3) Special benefits-injury on duty

Subject to the provisions of subclause (6)(a), where an employee is absent from work owing to disablement falling within the provisions of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act 130 of 1993), a special sick-pay benefit up to a maximum of three working days for each period of such absence (calculated on the ordinary hours of the shift of the establishment concerned, excluding overtime) shall be payable to the employee at the actual hourly rate of pay which the employee was receiving at the time of the disablement: Provided that where an employee worked for part of his or her ordinary shift on the date on which the disablement commenced, the special sick pay benefit payable for the day shall be reduced *pro rata*.

(4) Funeral benefit

Subject to the provisions of subclause (6)(a), on the death of a member, a funeral benefit of R5000 shall be payable to the surviving spouse or to such person as the Management Committee may consider entitled to receive the benefit, on production of such proof of death of the employee as the Management Committee may from time to time prescribe or require.

(5) Benefits – pregnancy / confinement / stillborn confinement / adoption of children under two years of age

Notwithstanding the provisions of subclause 6(a) and subject to subclause 6(b), benefits shall be payable to members in respect of absences from work owing to pregnancy, or confinement or adoption of children under two years of age as follows:

A. In respect of members with one year or more continuous service with the same employer

(a) Pregnancy benefits

Benefits shall be payable for each completed week of absence up to a maximum of 26 weeks for any one pregnancy at the actual wage rate of the member immediately prior to such absence.

(b) Stillborn benefits

Benefits shall be payable for each completed week of absence up to a maximum of 12 weeks for any one stillborn confinement at the actual wage rate of the member immediately prior to such absence.

(c) Benefits: Adoption of children under two years of age

Benefits shall be payable for each completed week of absence up to a maximum of 26 weeks for any one legal adoption of a child under the age of two years at the actual wage rate of the member immediately prior to absence from work owing to adoption.

B. In respect of members with less than one year's continuous service with the same employer

(a) Pregnancy benefits

Benefits shall be payable for each completed week of absence up to a maximum of 18 weeks for any one pregnancy at the actual wage rate of the member immediately prior to such absence.

(b) Stillborn benefits

Benefits shall be payable for each completed week of absence up to a maximum of 8 weeks for any one stillborn confinement at the actual wage rate of the member immediately prior to such absence.

(c) Benefits: Adoption of children under two years of age

Benefits shall be payable for each completed week of absence up to a maximum of 18 weeks for any one legal adoption of a child under the age of two years at the actual wage rate of the member immediately prior to absence from work owing to adoption.

Payment of the benefits set out above are subject to the following conditions:

- (i) The Fund shall also pay an additional amount when the member proceeds on maternity or adoption leave, which is the equivalent of the pro-rata leave pay and leave enhancement pay which the employee would have received had she not been absent on maternity or adoption leave.

- (ii) Where absence from work owing to pregnancy or adoption is less than 26 weeks or 18 weeks, as the case may be, or in the case of a stillborn confinement less than 12 weeks or 8 weeks as the case may be, or where a member whose employment has been suspended owing to pregnancy or adoption recommences employment within 26 weeks or 18 weeks or where a member whose employment has been suspended due to a stillborn confinement recommences employment within 12 weeks or 8 weeks, benefits shall be payable for such lesser period that the member has not worked during such pregnancy.
- (iii) Benefits for days of absence not comprising a complete week shall be calculated pro rata for each completed day of absence, depending on whether a five-day week or a six-day week was being worked immediately prior to the absence.
- (iv) Benefits under this subclause shall be payable for a maximum of three pregnancies (which shall include any stillbirths or adoptions) per member: provided that the member shall have not less than one year's continuous membership of the Fund between pregnancies or adoptions for which benefits are payable under this subclause.
- (v) Applications for benefits shall be supported by such documentary evidence as may be required by the Management Committee from time to time.

(vi) Members qualifying for benefits under this subclause shall be entitled to an advance payment as set out hereunder after completion of the first week of absence. Benefits shall accrue on a weekly basis for absence owing to pregnancy / confinement or adoption after expiry of such period:

- (a) Four weeks in respect of pregnancy or adoption in respect of members with more than one year's service with the same employer.
- (b) Two weeks in respect of pregnancy or adoption in respect of members with less than one year's service with the same employer".

(6) Qualifications, limitations and exclusions

No benefits shall be payable-

- (a) Until 13 consecutive weeks' contributions have been made to the Fund:
Provided that contributions terminated by a period of unemployment of up to two months or a change of employer within the Industry, where the break in contributions does not exceed two months and the employee was actually unemployed during such period, shall be regarded as being consecutive with the contributions made following such unemployment or change of employer:
Provided further that employees leaving the Industry and subsequently returning to the Industry shall be eligible for benefits only after 13 consecutive weekly contributions have been made to the Fund;

- (b) In respect of continuous periods of absence exceeding 30 weeks until such time as the employee shall have completed a further 26 weeks of employment, and for purposes of this section, absences separated from each other by less than 26 weeks shall be deemed to be continuous;
- (c) In respect of paid public holidays specified in the Agreement for the Industry, or in respect of any part of the paid holiday period for which an employee receives holiday pay, and where an employee works part of the shift on the day he is first absent and is not entitled to paid sick leave from his employer under clause 34 of the Main Agreement or under sick-leave provisions of any other Agreement, such day shall count as a day of absence due to illness, for purposes of benefits payable by the Fund;
- (d) To employees who become unemployed during the period they are entitled to receive unemployment benefits falling within the scope of the Unemployment Insurance Act 1966;
- (e) For any illness, disablement or death falling within the provisions of the Compensation for Occupational Injuries and Diseases Act, No.130 of 1993, except as provided for under subclause (3);
- (f) In respect of absence from work due to pregnancy (including stillbirths), confinement or the legal adoption of a child under the age of two years, except as provided for under subclause (5).
- (g) In respect of absences from work directly or indirectly caused by, or resulting from-
 - (i) alcoholism or the use of narcotics;
 - (ii) engaging in hunting, racing on wheels or motor-cycle rallying, including breakfast runs and motor-cross;

- (iii) the performance of any unlawful act, service in the armed forces, flight or attempted flight in any aircraft, except as a fare-paying passenger on a regular scheduled airline;
- (iv) death or injury inflicted by any military or usurper power, whether or not there has been a declaration of war, or due to riots or civil commotion.

(1) Notwithstanding the provisions of subclause (6)(a), a member-

- (a) Who is unable to continue working owing to pregnancy (including stillbirths) or the legal adoption of a child under the age of two years; and
- (b) Who has been in the employ of the same employer and a member of the Fund for a period of not less than two years immediately prior to suspension of employment due to pregnancy (including stillbirths) or the legal adoption of a child under the age of two years; and
- (c) Who has been issued with a written agreement of re-employment by the employer, as provided for in clause 9(2) of the Main Agreement, or relevant provisions of any other Agreement, shall, on recommencing employment with the same employer, have the break in service condoned for the purpose of determining qualification and/or entitlement to benefits.

For the purpose of the above, the employer, when notifying of the suspension of service on the contribution return forms submitted in terms of clause 7(3), shall record thereon that such suspension was due to pregnancy (including stillbirths) or the legal adoption of a child under two years of age and that the employee has been issued with a written agreement of re-employment in terms of clause 9(2) of the Main Agreement or relevant provisions of any other Agreement.

- (2) Notwithstanding anything contained in this clause the Management Committee shall have discretionary powers to grant additional assistance to employees in cases of hardship arising from illness and may grant special relief to employees by means of pecuniary grants, loans or otherwise on such conditions as it may from time to time determine.

Signed at Johannesburg for and on behalf of the parties, this 6 October 2008

L Trentini
Member

L Mthiyane
Member

N Faasen
Operations Manager