

No. R. 881

4 September 2009

LABOUR RELATIONS ACT, 1995**MOTOR INDUSTRY BARGAINING COUNCIL – MIBCO: EXTENSION TO
NON-PARTIES OF ADMINISTRATIVE 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 from7 September 2009.....and for the period ending 31 August 2010.

M. M. S. MDLADLANA
MINISTER OF LABOUR

SCHEDULE

MOTOR INDUSTRY BARGAINING COUNCIL - MIBCO

ADMINISTRATIVE 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 Southern 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 the

MOTOR INDUSTRY STAFF ASSOCIATION (MISA)

(hereinafter referred to as the “employees” or the “trade unions”), of the other part,

being parties to the Motor Industry Bargaining Council – MIBCO,

1. CLAUSE 1: 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, 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.

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 operation for the period ending 31 August 2010.

3. SPECIAL PROVISIONS

The provisions contained in clauses 5 (1) (d), 7, 12 and 13 and 19 of the Agreement published under Government Notice No. R. 1035 of 3 October 2008 (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.

4. GENERAL PROVISIONS

The provisions contained in clauses 3 to 5(1) (c), 5 (1) (e) to 6, 8, to 11, 14 to 18 and 20 to 23 of the Former Agreement (as further amended, renewed extended and re-enacted from time to time), shall apply to employers and employees.

5. CLAUSE 3: DEFINITIONS

- (1) Substitute the following for subclause (b) of definition 19 - "Journeyman":

"(b) is in possession of a Grade A membership card issued by the Motor Industry Staff Association (MISA) or the National Union of Metalworkers of South Africa; or".

- (2) Substitute the following for subclause (a) of definition 21 - "Motor Industry":

"(a) assembling, erecting, testing, remanufacturing, repairing, installing, adjusting, overhauling, wiring, upholstering, spraying, painting and/or reconditioning carried on in connection with -

- (i) chassis and/or bodies of motor vehicles;
- (ii) internal combustion engines and transmission components of motor vehicles;
- (iii) all electrical and electronic equipment and/or devices mainly or exclusively connected with motor vehicles;"

- (3) Substitute the following for subclause (g) of definition 21 - "Motor Industry":

"(g) the business conducted by filling and/or service stations, including ancillary activities forming part of a filling station linked to the convenience store environment inclusive of the preparing, serving and selling of food/beverages to customers, but excluding activities of separately registered establishments whose sole activities relate to the restaurant, tea room and catering environment;"

- (4) After the phrase "For the purposes of this definition" at the end of subclause (l)(ii) of definition 21 insert the following between "automotive engineering" and "motor vehicle":

"auto valet establishment" means an establishment associated with filling and/or service stations forming part of the same enterprise within the Motor Industry wherein the following activities pertaining to motor vehicles in or on the premises of such establishment are carried out:

- (a) Steam cleaning of chassis or engines;
- (b) washing and/or polishing of the exterior/body;
- (c) vacuuming and/or cleaning of upholstery and/or interior;
- (d) painting and/or polishing of tyres; and
- (e) driving and/or parking of vehicles on premises of a valet establishment."

6. CLAUSE 11: RETURNS TO THE COUNCIL

- (1) In subclause (5) substitute the expression "R2,35" for the expression "R2,15".

7. CLAUSE 16: CONTINGENCY RESERVE

- (1) Substitute the following new clause for clause 16 in its entirety:

"(1) Leave pay, holiday bonus and additional holiday pay in the possession of the Council and unclaimed by the beneficiaries after the expiration of three years from the date of receipt shall be paid -

- (a) to Contingency Reserve A where the beneficiary is eligible for membership of the Motor Industry Staff Association (MISA); and
- (b) to Contingency Reserve C, where the beneficiary is eligible for membership of the National Union of Metalworkers of South Africa.

- (2) Contingency Reserves A and C (hereinafter referred to as the 'Reserves') shall be utilised for the benefit of employees in the Industry as the Council may determine: Provided that -

- (i) any such leave pay or additional holiday pay or part thereof as the Council may regard as being in excess of what is required to finance the Reserves shall be forfeited to the Council;

- (ii) any leave pay or additional holiday pay that has been forfeited to the Council or paid to the Reserves in terms of this subclause and that is subsequently claimed by the beneficiary, may be paid out at the discretion of the Council;
 - (iii) subject to proviso (ii), any money forfeited to the Council shall, in the case of a beneficiary who was a member of either the Motor Industry Staff Association (MISA) or the National Union of Metalworkers of South Africa, be credited separately in the books of account of the Council in accounts to be styled the A Contingency Account or the C Contingency Account, respectively.
- (3) The Reserves shall be administered by the Council in accordance with principles formulated by the Council and a copy of the memorandum containing such principles and particulars of any amendments shall be lodged with the Director-General of Labour.
- (4) In the event of the dissolution of the Council, any moneys standing to the credit of the Reserves shall at the time of such dissolution be deemed to constitute part of the Council's cash assets and shall be dealt with accordingly: Provided that in the case of Contingency Reserve A such moneys shall be paid into any Benefit Fund established on behalf of the Motor Industry Staff Association (MISA) in terms of clause 4 of its Constitution and approved by the Registrar of Labour Relations.

- (5) Subject to the provisions of subclause (4) of this clause, in the event of the expiration of this Agreement by effluxion of time or cessation for any other cause, the Reserves shall continue to be administered in terms of subclause (3): Provided that if another agreement for the Industry is not negotiated within a period of two years after such expiration or cessation, any moneys standing to the credit of the Reserves shall be forfeited to the Council.
- (6) The cost of administering the Reserves referred to in this clause and the special Leave Pay Account referred to elsewhere in this Agreement shall be borne by the Council, which may at its discretion invest any of the funds on hand with an approved bank and/or building society, and any interest accruing from such investment shall be retained by the Council to defray costs of administration of the Reserves and of the said Special Leave Pay Account.”.

SIGNED AT RANDBURG ON BEHALF OF THE PARTIES, THIS 9TH DAY OF JUNE 2009.

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B. CELE
PRESIDENT OF THE COUNCIL

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J.J. OLIVIER
MEMBER OF THE COUNCIL

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W. SCHRÖEDER
GENERAL SECRETARY OF THE COUNCIL