

CIRCULAR

amended

**Kindly place on your staff notice board
for the attention of your employees**

11 September 2009

Attn: General Manager

CHANGES TO THE 2009/2010 MAIN AGREEMENT

In terms of the 2007/2011 Industry Settlement Agreement, the employer and employee parties agreed to refer a number of issues to technical committees of the Council for finalisation.

These have now culminated in important amendments to the Main Agreement which has now been published under Government Notice R.899 in Government Gazette No.32555 dated 11 September 2009 with effect from 21 September 2009.

Please note the following:

1. NEW INDUSTRY WAGE RATES FOR THE PERIOD 1 JULY 2009 TO 30 JUNE 2010

A circular was forwarded to the industry on 2 June 2009 setting out the details of the new wage rates. The circular is available from the MEIBC's website at www.meibc.co.za, or from any MEIBC regional office.

Backdating and Lump Sum Payment

Although the Agreement is effective from 21 September 2009, it does contain a clause which requires employers to backdate the wage increases to 1 July 2009, being the date on which the agreement was intended to become binding on the industry. Employees are therefore entitled to a lump sum payment.

Employers will be allowed a period of 16 weeks, ending on 11 January 2010, in which they must compensate the employees. Every employee who was in employment on 1 July 2009 or employed after 1 July 2009 at a wage rate lower than the wage rate prescribed for his/her class of work in the Agreement must be paid the difference between the old wage rates and the new wage rates. Overtime worked by employees between 1 July 2009 and 21 September 2009 must also be included.

The lump sum payment should be calculated as follows:

$$\text{Lump sum} = (\text{hours} \times \text{new wage}) \text{ less } (\text{hours} \times \text{old wage})$$

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“Hours” means the number of hours worked by an employee from start of his shift on 1 July 2009 to the end of his shift prior to receiving the increase provided for in the new Agreement. Any overtime worked is included in the total hours and paid at the applicable premium, ie 1.5 times the normal rate or double-time.

“New wage” means the employee’s hourly wage after the increase specified in the 2009/2010 wage rate;

“Old wage” means the employee’s hourly wage as at 30 June 2009.

Note:

In instances where interim increases have been granted which are lower than the increase contained in the Agreement, a separate calculation must be carried out. The employee must be paid the difference between the interim increase and the new rate of pay.

2. SHORT TIME (CLAUSE 7)

The main changes concern the notification and consultation period (which has been extended from two days to five calendar days), and the definition of “unforeseen contingencies”.

In respect of unforeseen contingencies, provision is now made for the immediate implementation of short time.

The new provisions will apply from 21 September 2009.

Definition

“Short time” means the implementation of reduced working time, ie fewer working hours per day and/or fewer working days per week, owing to a shortage of work and/or materials and any other justifiable contingencies and/or unforeseen contingencies and/or circumstances beyond the control of the employer (which does not include inclement weather).

Notification

- The employer shall give the MEIBC Regional Office, affected employees and affected party trade unions five calendar days’ notice of intention to work short-time.
- The purpose of the five-day notification period is to allow the employer and the representatives of the trade unions and/or elected shop stewards to meet in order to consult on the manner in which the short-time working will operate. This may include meetings convened on a Saturday and/or Sunday.
- As far as is practicable, spread the work available amongst the affected employees.
- The employer shall not be required to pay wages to employees except for periods actually worked.
- Where the employer believes work can be resumed and instructs employees to present themselves for work on a particular day, they shall receive not less than four hours’ work or pay in lieu thereof.
- The employer shall give the MEIBC Regional Office, affected employees and affected party trade unions two clear working days’ notice of the intention to increase or reduce short-time hours.
- Notify MEIBC Regional Offices and affected party trade unions if short time is to continue for more than six weeks from the date of original implementation.

Unforeseen contingencies

- For purposes hereof, the five-day notice period set out above, shall not apply in respect of short-time working caused by unforeseen contingencies and/or circumstances beyond the control of the employer including but not limited to power problems, interruptions and/or failures, machinery breakdowns, theft, fire and/or flood, provided that:
 - Where the employer elects to send employees home they shall receive not less than four hours work or pay in lieu thereof, in respect of such day.
 - Where the employer believes work can be resumed and instructs employees to present themselves for work on a particular day, they shall receive not less than four hours work or pay in lieu thereof.

General

- The provisions of Clause 5 of the Main Agreement relating to overtime payments shall not apply in respect of time worked in excess of specified daily short-time hours, but less than the ordinary working hours for such working day of the week, provided that:
 - Should the employer require an employee to work in excess of the daily short time hours, but fails to give the two days' notice, then the period worked must be paid at a penalty rate (equivalent to the applicable overtime rate for the period worked beyond the short time hours) for a maximum period of two days.

3. OVERTIME AND PAYMENT FOR WORK ON SUNDAYS (CLAUSE 5)

This clause has been amended as follows:

- Where an employee works less than the required number of weekly hours (40 hours), any overtime hours will be used to make up the shortfall. This will not apply where an employee is on sick leave in terms of Clause 34, "Paid Sick Leave".
- Unless otherwise agreed, overtime will be worked on a voluntary basis.

NB:

It should be noted that that overtime worked in the following circumstances cannot be used to make up the shortfall:

- *Time worked on a Sunday is not regarded as overtime, or*
- *The employee is absent from work with the permission of his employer, or*
- *Absent on account of sickness in accordance with clause 34, or*
- *Absent due to circumstances beyond the employee's control.*

4. SHIFT WORK (CLAUSE 6)

This clause has been amended to provide for the employer and employees to agree by mutual arrangements on how work performed on Sundays and Public Holidays will be paid. A copy of the Agreement must be lodged with the MEIBC Regional Office.

In the absence of such an Agreement, work performed on a Sunday and on a Public Holiday will be paid in accordance with clauses 5 and 11 of the Main Agreement.

5. PAYMENT OF EARNINGS (CLAUSE 8)

The Agreement has been amended to provide for the employer and elected shop stewards to communicate to a newly employed employee the prevailing method of payment (ie weekly or monthly) observed in the firm.

Should a monthly payment arrangement be in operation in terms of the provisions of the Agreement, the newly appointed employee must accept the arrangement.

6. ANNUAL SHUT DOWN (CLAUSE 16)

Provision has been made for an employer wishing to observe or discontinue an annual shut-down, in terms of section 16(1), (7) and (8) to obtain the consent of the applicable MEIBC Regional Council committee.

7. TECHNOLOGICAL CHANGES AND WORK RE-ORGANISATION (CLAUSE 33)

Subclause 2(b)(i) provides for establishment, at plant level, of an ergonomic committee (comprising representative trade unions, any employee representative body, and a designated management representative) which has the power to review the ergonomic implications of the technological changes and take decisions on how workers interact with all aspects of their work environment, including the task, and the tools and equipment used and work re-organisation.

Provision has been made for the industry dispute resolution procedure to apply, in the event that agreement cannot be reached.

8. SECURITY OF EMPLOYMENT AND SEVERANCE PAY (ANNEXURE A)

Provision has been made, for purposes of notification of proposed retrenchment, for the MEIBC Regional Council also to be notified.

9. CONSTRUCTION SITES COVERED BY PROJECT LABOUR AGREEMENTS (ANNEXURE H)

It has now been made clear that shipbuilding and/or ship repair work is specifically excluded from the definition of "construction site" set out at item 1.4. The payment of lower wage rates in respect of shipbuilding and/or repair work requires a specific exemption.

10. TECHNICAL SCHEDULES

Some amendments have been made to the following technical schedules:

- Schedule G(a)(ix) "Electrolytic Finishing".
- Schedule G(g) "Metal Service Centres".

11. LEAVE ENHANCEMENT PAY FOR 2009 (CLAUSE 14)

Employers are reminded that applications for exemption for payment of leave enhancement pay must be submitted to the MEIBC Regional Council office by not later than 31 October 2009 (Clause 14(8)(d)).

12. UPDATED CONSOLIDATED MAIN AGREEMENT

The updated agreement is available from the MEIBC's website at www.meibc.co.za.

For any further enquiries please contact the Regional Council in your area.

Yours faithfully



Alistair Smith

Chief Executive Officer