

## CIRCULAR

Date issued: 15 November 2011

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Centre for Dispute  
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**To: General Manager**

### **THE LABOUR COURT DISMISSES NEASA'S APPLICATION TO THE LABOUR COURT**

On Wednesday 9 November 2011, Judge Andre van Niekerk of the Labour Court dismissed the urgent application launched by the National Employers' Association of South Africa (NEASA), the Plastics Converters' Association of South Africa (PCASA) and Riverpark Crane Hire CC to set aside the extension of the Main Agreement to non-parties in the industry.

Judge van Niekerk in essence concluded amongst his findings that *"the minister's decision is valid and enforceable.... In any event, the assertion of any right that the applicants may have to the extent that it is premised on the invalidity of any act by the bargaining council or any irregularity in any appointment or election of any representative to the bargaining council or any of its structures, any defects do not invalidate the extension of the collective agreement by virtue of the provisions of s206"* of the Labour Relations Act.

### **OUTCOME OF ARBITRATION BETWEEN NEASA AND MEIBC**

Following the dispute lodged by the National Employers' Association of South Africa (NEASA) with the Metal and Engineering Industries Bargaining Council (MEIBC) concerning the interpretation and/or application of the constitution of the council, an arbitration hearing was held on Thursday and Friday, 10 and 11 November 2011 at the MEIBC in Johannesburg.

The negotiations between MEIBC, the Steel and Engineering Industries Federation of South Africa (SEIFSA) and NEASA resulted in the signing of a consent order by the parties on 11 November 2011. The consent order was confirmed by the arbitrator as an order on the same date.

The order accepts that the council's structures were not *technically* structured in terms of the MEIBC Constitution since 11 November 2010. It importantly provides for a process – which will be overseen by the arbitrator, Advocate Gerrit Pretorius SC – to rectify the structure of and representation at the council's regional and national committees.

In an effort to bring the industry back to normality as soon as possible, the order also contains a stipulation prohibiting NEASA from challenging decisions or acts previously taken within the council. NEASA, however, reserves its rights to pursue a further challenge, if any, on the extension of the Main Agreement. The MEIBC is confident that it will successfully challenge any such attempt by NEASA.

The Council will continue to function through its existing MANCO until the Council structures are rectified. The MEIBC will continue to carry out compliance with and enforcement of the Main Agreement in the industry, as normal.

The Consent order does not in any way affect the credibility of any of the past or existing acts or agreements of the Council, including but not limited to the Main Agreement and the extension of the agreement to non-parties.

The full Labour Court judgement and the Consent Order are available on the MEIBC website ([www.meibc.co.za](http://www.meibc.co.za)) for downloading.

Should you have any queries about this circular, kindly contact your nearest regional office for further assistance.

Yours faithfully



Nick Faasen  
*Operations Manager*