



MISA MONTHLY

08 JULY 2010

2010 WAGE AND SUBSTANTIVE NEGOTIATIONS

The parties to the Motor Industry Bargaining Council commenced with the negotiations for a new wage and substantive agreement as the current agreement expires on 31 August 2010.

The employers attempted to convince the trade unions to negotiate on wages only due to the 2010 FIFA World Cup and then to address the substantive issues only next year. This was in a so-called attempt to save time. MISA rejected this as a not so sincere proposal.

The MISA proposals are for a 17% increase to the minimum wages and the following issues:

- MISA requires an agreement to limit senior executive pay increases and bonuses, i.e. directors of companies and members of closed corporations;
- In order to attract more learners and apprentices to the industry, we need to continue on the path we created during the last round of negotiations by increasing their wages in excess of the other agreed increases. In order to do that, we need an structural adjustment and not only a wage increase for those categories;
- The wages for the fourth year/level 3/level 4 apprentices/learners should be adjusted to the same level as a Grade 7 and the rest should be worked from that benchmark;
- Provision should also be made for the NQF learnerships into the agreement at the same level as the level 4 trades;
- The following wage related issues should be adjusted by the same level as the wage increases:
 - Holiday bonus and AHP;
 - Provident Fund contributions on commission earnings;
 - Stand-by and call-out allowances;
 - Tool allowances;
 - Payment of earnings.

1. Scope of Application

The Scope of Application earnings threshold in Divisions A and B of R115 500,00 for Area A and R98 200,00 for Area B, respectively should be adjusted to the same level as provided for by the Basic Conditions of Employment Act. The BCEA level is currently at R149 736,00. It must also increase annually linked to the salary increases.

The reason for the big discrepancy is due to the fact that the MIBCO earnings threshold is only adjusted every three years whilst the BCEA is adjusted annually to keep up with the cost of living or any other factors the Minister may take into account.

2. Council Levies

There are a couple of issues to be dealt with under this:

- Currently, employees earning above the Scope of Application earnings threshold do not pay MIBCO levies. Yet, when they are involved in disputes or any other benefits, they make use of the MIBCO and related infrastructure. These employees should be included in contributing towards the MIBCO levies;
- Council levies should also become payable even if the employee works for less than 23 hours per week. See Clause 11(6) of the MIBCO Administrative Agreement in this regard. The same reasoning as above applies.

3. Travel Allowance – Clause 8

The travelling allowance provided for in Clause 8(1)(e) and 8(2)(a)(ii) of R65,00 and R135,00, respectively should be increased in line with the wage increase.

4. Retrenchment Pay – Clause 13

In the event of employees being retrenched, the calculations should be based on the following formula:

- Two weeks remuneration per year for the first five years;
- The cap of 20 weeks should be removed;
- If an employee has been employed for less than a year, a minimum of two week's remuneration to be paid;
- If an employee has been employed for more than 6 months in any year, such year shall be rounded upwards to effect a completed year.

5. Short time

The current short time provisions are open for abuse and it is in fact happening. In order to address this, MISA proposes that the following amendments be incorporated into the short time clause:

Limit the number of hours with which the employee may be placed on short time. Define what is bona-fide short time – in line with the definition of operational requirements as per the LRA.

- Short time is a temporary measure and it should be limited to a 4 week period in any 12 months.
- The employer must notify MIBCO as well as the relevant MIBCO trade unions at the commencement of the short time.
- If short time of more than 4 weeks is required, then the employer shall consult with the relevant MIBCO trade union.
- The reduction of normal working hours as per the short time clause will be limited to 30 hours per week.
- If the employer requires short time of less than 30 hours, then the employer shall consult with the relevant MIBCO trade unions.
- Following the consultation process, the Council should issue an exemption certificate.
- The definition of short time should read as follows:

“short time means a temporary reduction in the number of ordinary hours of work owing to economic, technological, structural or similar needs of an employer,

slackness or the exigencies of trade, shortage of material, a general breakdown of plant or machinery caused by accident, or other unforeseen contingency and/or circumstances beyond the employer's control, stock-taking or stoppage of work granted at the request of a majority of the employees in the establishment or part thereof"

6. Maternity Leave – Clause 31

Provision must be made that in the event an employee returns to work following maternity leave, she must be placed in the same position she held prior to the maternity leave.

The agreement must also make provision for instances where the employees adopt children. The UIF makes provision for benefits to adopt children up to two years of age.

Due to the adoption process, it is not always possible to give four weeks' notice and we propose a provision for seven days notice or as and when practical.

7. Family Responsibility Leave – Clause 36

The agreement must make provision for family responsibility leave in the circumstance where a child is adopted and when the spouse is hospitalised.

The number of days should also be increased from three days to seven days.

8. Child Care Provisions

This can be incorporated in the clause providing for annual leave. Aftercare facilities close during the December holidays and child care is then a problem. Employees with small and school aged children should get preferential consideration for leave or alternatively flexible working hours during that period, which request will not be unreasonably declined.

9. Transport Allowance

Those employees in categories of Grades 5, 6, 7, 8 and Division B who do not have a company car or car allowance benefit, a transport allowance of R50-00 per week should be provided.

10. Overtime for Motor Vehicle Sales Persons

It is expected of motor vehicle sales persons to work hours in excess of the prescribed 45 without any overtime pay. The reasoning has always been that they do not get overtime pay because they earn commission on vehicles sold during that time. The problem is that they do not always sell vehicles during that time and therefore work overtime without any remuneration.

Provision should be made for overtime pay for motor vehicle sales persons when working in excess of the prescribed 45 hours per week.

11. Paid Time Off for National Office-Bearers for Industry Related Activities

It is difficult to get employers to release national office-bearers for industry activities without affecting their annual leave. The structure of the industry requires the

participation of office bearers and to overcome these problems MISA proposes that provision in the Main Agreement should be made for 7 days paid time off to attend bona-fide industry related activities.

12. Resolution of Disputes regarding the Contravention of the Agreements.

In order to expedite agreement contraventions, MISA proposes an amendment to the “Resolution of Disputes” clause 29 Division A (and all other relevant clauses) to the following effect:

“(2) The Council’s agents will issue a compliance order requiring any person bound by the Council’s collective agreements, in the event of a contravention, to comply with the agreement within a period of 10 days.

(3) In the event of non-compliance following the order, MIBCO will refer the unresolved dispute to the MIBCO DRC for arbitration in term of Section 52 of the LRA. Such referral shall be made on the form specified by the Council. This provision shall not apply when the Council makes use of the procedure set out in sub-clause (5)

(4) the arbitrator shall have the power to decide upon the procedure to be followed at the arbitration hearing in terms of Section 138 of the LRA, and be entitled to make an award in respect of the parties’ arbitration costs in terms of Section 138(10) of the LRA.

(5) (current sub-clause 4)”

Any amendment agreed to for Division A should be incorporated in Division B, where applicable.

The employers made an offer of 4% on minimum wages and rejected all the other proposals.

MISA declared a dispute with the employers and so did NUMSA.

The dispute could not be resolved at three dispute meetings and the parties agreed to appoint a mediator to assist the parties in concluding an agreement.

Members will be kept informed as the process develops.

Join today and ensure professional assistance when you need it most !

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