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CIRCULAR



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TO ALL PARTICIPANTS IN THE MOTOR INDUSTRY

PROGRESS UPDATE ON THE RENEWAL OF THE COLLECTIVE ADMINISTRATIVE AGREEMENT PROCESS

MIBCO has identified the need to clarify its position with regards to the above mentioned and in response to various other correspondence issued by Parties to the Council.

In this regard, it is the intention to enlighten the members to the Council as to the sequence of events that led to the expiry of the previous Agreement on the 31 January 2015, as well as to give an update to the current status with regards to the publication and re-enactment of the Collective Administrative Agreement.

NEASA applied for Party membership in June 2014. After verification and confirmation that it meets the minimum threshold requirements of the MIBCO Constitution, NEASA was admitted as a Party in August 2014 by the MIBCO Governing Board and its admission was confirmed at the MIBCO Annual General Meeting (AGM) held on 06 November 2014. This required the Council, in terms of Clause 5.3 of the Constitution, to agree on seat allocation and amend the Constitution to add NEASA as Party and to be included as such in all subsequent MIBCO Agreements.

The employer Parties could not agree on the seat allocation up to the time of the MIBCO AGM. The MIBCO AGM agreed on a provisional arrangement for NEASA to have 2 seats, pending the finalisation of the allocation of seats.

During the MIBCO Annual General Meeting held on 6 November 2014 the parties to the Council, being the Retail Motor Industry Organisation (RMI), the Fuel Retailers Association of Southern Africa (FRA), National Employers Association of South Africa (NEASA), National Union of Metalworkers of South Africa (NUMSA) and the Motor Industry Staff Association (MISA), unanimously decided to extend the period of operation of the Collective Administrative Agreement for a further period of 1 year ending 31 January 2016.

The Council, immediately after this decision had been taken, prepared the necessary documents and submitted these on 23 and 24 November 2014 to the Department of Labour in order to implement this decision.

In the documents submitted to the Department of Labour for the extension of the Collective Administrative Agreement MIBCO included NEASA as an employer body and party to the application for the extension.

The Department of Labour then advised that it needed a Constitutional Amendment first before they could proceed with the extension of the Collective Administrative Agreement.

Although MIBCO used legal experts to guide the Council in this process, as well as the involvement of the Department of Labour, the parties could not resolve their differences. The matter in dispute was whether to only include NEASA as a party to the constitution or to effect a range of other proposed amendments for submission. This impasse is currently on going and a mediator has been appointed to resolve the impasse.

Subsequent to the above the Department of Labour indicated that they will be prepared to consider the extension of the period of operation of the Agreements. At this point in time one of the Parties indicated that they cannot support the re-enactment of the Collective Administrative Agreement.

In addition to the aforementioned and in line with the new amendments to the Labour Relations Act, additional requirements were needed before the Minister would consider the extension of any Collective Agreement to non-parties. One of the Parties again during this process formally lodged an objection in terms of the new requirement to the re-enactment of the Collective Administrative Agreement.

The legal requirement is for the Minister of Labour to give non-party establishments the opportunity to comment or object within 21 days, and the relevant government gazette was issued on the 24 April 2015.

On conclusion of the period for comment the Department of Labour had to do representivity verification in order to confirm the representivity of the Employers Organisation and Trade Unions in the Motor Industry.

The Department of Labour visited the MIBCO premises for this purpose on the 8 and 11 June 2015 in order to fulfil this requirement.

In the interim at a MIBCO Governing Board Meeting held on 10 June 2015 the Governing Board approved a levy increase for budget purposes.

The Governing Board did not anticipate that the Collective Administrative Agreement would not be in place for the start of the new financial year, 1 July 2015, and the MIBCO officials proceeded with the preparation of the communication issued to the Industry on 26 June 2015.

However, from as far back as 31 March 2015, MIBCO communicated in great detail to the Industry with regards to the consequences of the expiry of the Collective Administrative Agreement and the two Provident Fund Agreements with effect from 31 March 2015. Circular 02/2015 has reference.

MIBCO understands that the various circulars and correspondence created uncertainty in the Industry and MIBCO would like to tender its sincere apologies for any inconvenience caused.

At a meeting of the Council held on 15 July 2015 it was decided to revert back to the previous levy contributions being R 2.50 per employer and R 2.50 per employee.

MIBCO would like to reconfirm that these contributions are voluntary and not enforceable as per the circular 02/2015 dated 31 March 2015.

For those Employers who have submitted the increased amount, MIBCO will effect the necessary adjustments.

In communication with the Department on 15 July 2015 the Department confirmed that the matter of the extension of our Agreements was receiving the attention of the Minister of Labour and they will advise the moment there is clarification with regards to the implementation date.

Should you need any further clarification please do not hesitate to contact either the Regional offices or the MIBCO Shared Services Centre.

THE MIBCO TEAM

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