

CORPORATE NEWSLETTER

SEPTEMBER 2010



Labour Law, BEE & Skills
for business

Dear SEESA Client

In this newsletter we will be discussing the following topics:

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BBBEE: MARITIME TRANSPORT AND SERVICES INDUSTRY

The Maritime Transport Industry (MTI) will undergo fundamental changes as a result of the Transport Sector code which was recently promulgated.

Determining whether your business falls within this sector might be confusing as there are numerous sub-categories applicable.

The Maritime Transport Industry is often associated with shipping lines involved in the carriage of cargo including associated service providers. Economic activities in South Africa which share a relationship with the sea comprise, amongst others the following:

- 1) Enterprises concerned with the marine transport of cargo and services ancillary to such transport;
- 2) Enterprises concerned with the manufacturing, provision, maintenance and repair of marine equipment, including marine craft;
- 3) The commercial ports system, authorities responsible for the provision and operation of navigational aids, including lighthouses;
- 4) Institutions concerned with the rescue, salvage and anti-pollution operations;
- 5) Government Departments and agencies concerned with international maritime relations, administration of

maritime safety, the protection and conservation of the marine environment and law enforcement within South Africa's offshore jurisdiction; and

- 6) Institutions concerned with marine and maritime education, training and resources.

The following activities, which constitute part of the Maritime Transport Industry are excluded:

- 1) Enterprises concerned with the exploitation of renewable and non-renewable marine resources
- 2) The Marine Tourism Industry, and
- 3) Naval defence.

Identifying the relevant subsector of the Transport Sector code which is applicable to your business is sometimes not such a clear cut exercise as one would initially anticipate.

SEESA BEE will not only assist you in determining into which sector you fall, but also keep you updated of the latest changes in the Sector codes applicable to your industry. We will also keep you advised on how to improve your score.

It is important to keep up to date with the latest changes in BEE legislation. The goalpost is often shifted in terms of the requirements for scoring points on the different elements, which in turn could affect your chances of attaining the best possible BEE score for your business.

MEIBC – NEW INDUSTRY WAGE RATES FOR THE PERIOD 01 JULY 2010 – 30 JUNE 2011

In accordance with the wage model as per the Industry Settlement Agreement (published per Government Notice R899 in Government Gazette 32555 dated 11 September 2009), industry wage rates will **increase by between 7.1% and 8.1% with effect from 1 July 2010.**

NEW INDUSTRY WAGE RATES

Increases of between 7.1% and 8.1% for rates A to H

Please refer to the attached schedules for the new minimum general and subsidiary wage rates.

The increases may be offset against any interim increases granted on or after 1 July 2010.

Any employee earning more than the specified minimum wage must receive the percentage increase mentioned above on the actual amount earned for a particular grade.

It should be noted that the **deadline for wage exemption applications was on 31 July 2010.**

For further information, kindly contact the MEIBC regional office in your area, or visit the council's website www.meibc.co.za.

METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL WAGE RATES FOR THE PERIOD 1 JULY 2010 TO 30 JUNE 2010

With effect from 1 July 2010

1. General Wage Increases

Rate	Current Minimum Wage Rate R c	Increase on Actual and Scheduled Wage Rates	Increase on Scheduled Wage Rates R c	New Minimum Wage Rates R c
A	42.34	7.10%	3.01	45.35
AA (6)	40.07	7.18%	2.88	42.95
AA (begin)	37.97	7.27%	2.76	40.73
AB	35.94	7.35%	2.64	38.58
B	34.05	7.43%	2.53	36.58
C	32.49	7.52%	2.44	34.93
D	31.54	7.60%	2.40	33.94
DD	28.98	7.68%	2.23	31.21
DDD	27.46	7.77%	2.13	29.59
E	25.99	7.85%	2.04	28.03
F	24.66	7.93%	1.96	26.62
G	23.30	8.02%	1.87	25.17
H	22.06	8.10%	1.79	23.85
Whichever is the greater personal increase				

2. Electric Cable (Schedule F)

Rate	Current Minimum Wage Rate R c	Increase on Actual and Scheduled Wage Rates	Increase on Scheduled Wage Rates R c	New Minimum Wage Rates R c
Rate Z	42.34	7.10%	3.01	45.35

Rate	Current Minimum Wage Rate R c	Increase on Actual and Scheduled Wage Rates	Increase on Scheduled Wage Rates R c	New Minimum Wage Rates R c
Rate Y	33.08	7.20%	2.38	35.46
Group IX	31.17	7.30%	2.28	33.45
VIII	30.15	7.40%	2.23	32.38
VII	29.01	7.50%	2.18	31.19
VI	27.95	7.60%	2.12	30.07
V	26.87	7.70%	2.07	28.94
IV	25.81	7.80%	2.01	27.82
III	25.09	7.90%	1.98	27.07
II	24.16	8.00%	1.93	26.09
I	23.40	8.10%	1.90	25.30
Whichever is the greater personal increase				

3. Structural Engineering

Rate	Current Minimum Wage Rate R c	Increase on Actual and Scheduled Wage Rates	Increase on Scheduled Wage Rates R c	New Minimum Wage Rates R c
5	42.34	7.10%	3.01	45.35
4	38.33	7.35%	2.82	41.15
3	32.71	7.60%	2.49	35.20
2	26.63	7.85%	2.09	28.72
1	22.06	8.10%	1.79	23.85
1(a)	18.20	8.10%	1.47	19.67
Whichever is the greater personal increase				

4. Apprentices

Year	Current Minimum Wage Rate per Week	Increase on Actual Rates	Weekly Increase on Minimum Rates	New Minimum Weekly Wage Rates
1ste Year	R837	7.10%	59.00	896.00
2de Year	R923	7.10%	66.00	989.00
3de Year	R1 100	7.10%	78.00	1 178.00
4de Year	R1 629	7.10%	116.00	1 745.00
Whichever is the greater personal increase				

5. Five Grade Schedule

Grade	Current Minimum Wage Rate R c	Increase on Actual and Scheduled Wage Rates	Increase on Scheduled Wage Rates R c	New Minimum Wage Rates R c
5	42.34	7.10%	3.01	45.35
4	36.47	7.10%	2.59	39.06
3	31.40	7.10%	2.23	33.63
2	27.04	7.10%	1.92	28.96
1	23.29	7.10%	1.92	24.94

Whichever is the greater personal increase

6. Vehicle Drivers

Rate	Main Agreement Symbol	Current Wage Rate R c	Increase on Actual and Scheduled Rates	Increase on Scheduled Rates R c	New Minimum Wage Rates R c
Forklift drivers	F	24.66	7.93%	1.96	26.62
Code 08	E	25.99	7.85%	2.04	28.03
Codes 10 & 11	DD	28.98	7.68%	2.23	31.21
Codes 13 & 14	C	32.49	7.52%	2.44	34.93

Whichever is the greater personal increase

Gate and Fence Manufacturing (Division D/7)

Rate	Current Minimum Wage Rate R c	Increase on Actual and Scheduled Wage Rates	Increase on Scheduled Wage Rates R c	New Minimum Wage Rates R c
B	22.13	7.43%	1.64	24.77
C	21.29	7.59%	1.61	22.89
D	20.84	7.72%	1.61	22.45
DDD	20.70	7.77%	1.61	22.31
E	20.67	7.74%	1.60	22.27
F	19.73	7.93%	1.56	21.29
G	18.66	8.02%	1.50	20.16
H	16.56	8.10%	1.34	17.90

Whichever is the greater personal increase

7. Annexure H: Special Provisions Related to Construction Sites covered by a Project Labour Agreement (PLA)

Grade	Current Minimum Wage Rate R c	Increase on Actual and Scheduled Wage Rates	Increase on Scheduled Wage Rates R c	New Minimum Wage Rates R c
5	42.34	7.10%	3.01	45.35
4	38.33	7.35%	2.82	41.15
3	32.71	7.60%	2.49	35.20
2	26.63	7.85%	2.09	28.72
2(a)	21.88	7.90%	1.73	23.61
2	13.50	8.10%	1.09	14.59
1(a)	12.21	8.10%	0.99	13.20

Whichever is the greater personal increase

HOSPITALITY SECTOR – WAGE INCREASE

BASIC CONDITIONS OF EMPLOYMENT ACT (ACT NO. 75 OF 1997)

AMENDMENT OF SECTORAL DETERMINATION 14: HOSPITALITY SECTOR, SOUTH AFRICA

"I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, in terms of section 56(1) of the Basic Conditions of Employment Act, 75 of 1997, hereby amend Sectoral Determination 14: Hospitality Sector, South Africa, published under Government Gazette No. 29885 of 15 May 2007 in accordance with the schedule hereto and fix 1 July 2010 as the date on which this amendment shall become binding."

Reference: *Government Gazette*, 11 June 2010, Volume 540, Number 33291

SCHEDULE:

1. Replace wage tables 1 and 2 in clause 2 in the Government Gazette No. 29885, R.437 with the following wage tables:

TABLE 1:

Minimum wages for employers with 10 or less employees								
Minimum rate for the period			Minimum rate for the period			Minimum rate for the period		
1 July 2010 to 30 June 2011			1 July 2011 to 30 June 2012			1 July 2012 to 30 June 2013		
R.p.m	R.p.w	R.p.h	R.p.m	R.p.m	R.p.h	R.p.m	R.p.w	R.p.h
R1 981.48	R457.30	R10.17	Previous Minimum wage + CPI + 1 %			Previous Minimum wage + CPI + 1 %		

TABLE 2:

Minimum wages for employers with more than 10 employees								
Minimum rate for the period			Minimum rate for the period			Minimum rate for the period		
1 July 2010 to 30 June 2011			1 July 2011 to 30 June 2012			1 July 2012 to 30 June 2013		
R.p.m	R.p.w	R.p.h	R.p.m	R.p.m	R.p.h	R.p.m	R.p.w	R.p.h
R2 209.00	R509.83	R11.33	Previous Minimum wage + CPI + 1 %			Previous Minimum wage + CPI + 1 %		

UNDERSTANDING THE CONSUMER PROTECTION ACT BETTER

Product liability may hold detrimental risks for producers, importers, distributors and retailers of goods.

Section 61 of the Act imposes a significant impact relating to instances where the consumer suffers damages as a result of unsafe or defective goods. This section determines that producers, importers, distributors and retailers of goods will be held liable for harm caused as a result of the supply of unsafe goods, a product failure, a defect or hazard in the product, or inadequate instructions for the use of the goods or inadequate warnings related to any possible hazard that might be associated with the product.

This has a direct impact on product labelling and trade descriptions, which will necessitate producers, importers, distributors and retailers of goods to ensure proper instructions for use, and warnings of potential danger or hazard are provided, as this may limit a claim for damages by the consumer.

It is important to note that one of the biggest changes brought about by the Consumer Protection Act to the previous position in law, is that according to this section producers, importers, distributors and retailers of goods will be held liable for damages caused by unsafe or defective

goods whether or not the harm resulted from their negligence. This means that the consumer will no longer have to prove that the damages suffered as a result of defective goods, was due to the fault (negligence) of the producer, importer, distributor or retailer. The onus will now be on the producer, importer, distributor or retailer to prove that they are not responsible, and thus not accountable for the resulting damage or harm.

The Consumer Protection Act stipulates that a consumer may hold the producer, importer, distributor, retailer or a supplier of services who installs or supply the goods, jointly and severally liable. A consumer may claim damages related to death, injury, illness, loss or damage to property, or any economic loss resulting from death, injury, illness or loss or damage to property.