

Monday, 01 December 2014

NEASA // MEIBC COURT CASE

This serves to advise all our Regional Managers, Senior Agents, Agents, MEIBC staff members and the industry at large that subsequent to the notification received on Friday, 28 November 2014 that a judgment will be handed down on Monday, 1 December 2014, please receive the attached judgment from the Labour Court and its summary herein:

1. The judgement offers protection to the councils structures and powers by virtue of its registration in terms of section 29 of the Labour Relations Act (LRA), the effect of such registration in terms of section 50 of the LRA, the ILO conventions on Collective Bargaining No 154 of 1981 and Article 5 (c) and (d) and the judgement of *NEASA and others v Minister of Labour and others (2012) 33 ILJ 929 (LC)* at paragraph 20. [see paragraphs 8, 9 and 10 of the judgement]
2. The court further clarified the interpretation of section 32 of the LRA by stating “*The sensible approach to be accorded to section 32 (1) is that a collective agreement as defined in the LRA may be extended to non-parties subject to the jurisdictional pre-requisites set out in that section*”. The court further held importantly for the purposes of such meetings to decide on an extension request “*I have thus found it legally permissible for employer organisations to vote at a meeting of the bargaining council for a referral in terms of section 32 (1) even if they do not have representatives with a vote on a Manco or similar structure*” (paragraphs 13, 14, 15, 16 and 17 of the judgement)
3. Lastly it upheld SEIFSA’s role as a legitimate agent for its members in the bargaining council and afforded it the protection in terms of section 206 of the LRA against any constitutional attack. The court held at paragraph 18, “*The fact that certain groups of employers organisations elect to associate together by means of registering a federation does not affect the essential nature of such a federation as a group of employer organisations;*” and further at paragraph 19 “*In my judgement SEIFSA must be a bearer of the protection afforded by section 206 of the LRA, read with the relevant ILO Conventions.*” (see paragraphs 18 and 19 of the judgement)

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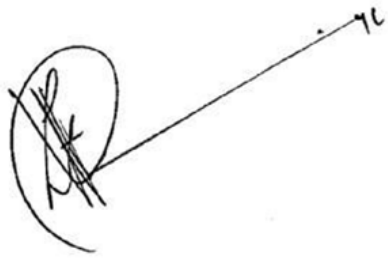
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A handwritten signature in black ink, consisting of a large, stylized initial 'T' followed by a series of loops and a long horizontal stroke extending to the right.

Thulani Mthiyane
General Secretary