

SARPBAC AGREEMENT EXTENSION



**Presented – Gary Wilson
General Secretary - Sarpbac**

PROGRAMME OUTLINE

BACKGROUND

- Founding of the council
- Primary purpose of the council
- Council's scope and various sectors
- Safety Nets
- Nature of Collective Agreements concluded in Bargaining Council

EXTENSION PROCESS

- Logic behind the extension
- Pro's and Con's
- Reaction to extension
- Some pertinent issues

CONCLUSION



BACKGROUND

- Established in 1996
- Founding Logic
 - Have a centralized forum for:
 - Orderly collective bargaining
 - Standardization of working conditions
 - Dispute resolution
- Who were/are parties ?
 - SABEA and COBEO
 - SATAWU, TOWU & TAWUSA
- We have had 17 years of selective coverage to SABEA and the unions represented on the council
- Non-parties within the industry were not bound by Collective agreements. Non-Party Employers & unions had the luxury of doing as they wished.




PRIMARY PURPOSE OF THE COUNCIL

- *To regulate relations between management and labour*
- *To regulate matters of mutual interests*
 - *by concluding collective agreements**and*
- *To settle disputes between parties and between members of parties*



COUNCIL'S SCOPE & VARIOUS SECTORS

- Definition of Road Passenger Transport Trade :
 - Excludes
 - Employers who convey scholars (home to school)
 - Transnet and local authorities
 - Scope of the council
 - Varied effective 01 March 2012 to cover all Road Passenger Transport Trade in South Africa .
 - Any operator that fall within the definition and operate in South Africa, is bound by the Main Agreement
 - Notable Sectors include
 - Subsidized & non-subsidized commuter services
 - Tendered contracts
 - Interim /Negotiated contracts
 - Commercial Contracts
 - Coach and Tour operators
 - Luxury and semi-luxury
 - Long and short distance services
- 

SAFETY NETS?

- Sub-clause 5.2 of the Main Agreement provides:
 - ***The employer is allowed to hold onto the minimums currently in place if such is above the council specified minimum rate***
- Clause 30 “Status Quo” of the Main Agreement provides
 - ***All conditions of employment, in force before the extension not covered in the council agreement shall remain in force and regulated by custom and practice***
- Clause 42 “Application of Agreement” provides
 - ***No employer shall be compelled by industrial action, litigation or otherwise to negotiate on matters contained in such Collective Agreement***
- Clause 37 of the Main Agreement allows for applications for Exemptions
- The numbers game [if sections 32 (2) and 32 (5)] are to be waved:
 - {{32 [1]} and (32 [3b & c]) raise the principle of majority in order for decisions of the council to be binding
 - ***parties (union and employer) voting in favour of the extension should constitute the majority of the parties to the council – 32 (1)***
 - ***the Minister has to ensure that both parties continue to represent majority of all the employees & employers within the scope of the council – 32 (3b & c)***

NATURE OF CA ITO SECTION 31

- A collective agreement concluded in a bargaining council binds:-
 - The parties to the bargaining council who is also parties to the collective agreement
 - The members of a registered traded union that is a party to the collective agreement
and
 - the employers who are members of a registered employers' organization that is such a party,




NATURE OF CA ITO SEC 199 OF THE LRA


- (1) A contract of employment , whether concluded before or after the coming into operation of any applicable collective agreement or arbitration award, may not:-
- Permit an employee to be paid remuneration that is less than that prescribed by that collective agreement or arbitration award;
 - Permit an employee to be treated in a manner, or to be granted any benefit, that is less favourable than that prescribed by that collective agreement or arbitration award; or
 - Waive the application of any provision of that collective agreement or arbitration award
- (2) A provision in any contract that purport to permit or grant any payment, treatment, benefit, waiver or exclusion prohibited by subsection (1) is invalid.



EXTENSION PROCESS

- Logic behind the extension
 - To fulfill the objective/goal of the founding logic
 - To level the playing field in the light of competitive tendering
 - To create a base for acceptable minimum wages/salaries and working standards/conditions across sub-sectors within the industry
 - To align the industry with the objectives of the LRA – “advance economic development, social justice, labour peace...”
 - Pros and Cons of the extension
 - Standardized processes within the industry
 - Takes care of “bullies” within the industry
 - Every employer subjected to the same rules and minimums irrespective of differing operational factors
 - “...to render the non-party to whom it [the agreement] is extended for all intents a party to the agreement”
- 

REACTION TO EXTENTION

- Why the controversy?
 - “we look after our employees”
 - “we pay them well”
 - (But what about the eventuality like Marikana?)
 - When making such statements we should heed the calls from others outside of our midst who advise as follows in the aftermath of Marikana
 - ***“the triple challenge of poverty, unemployment and inequality cast a dark shadow over the lives of millions of South Africans”***
Alistair Smith: Executive Director Nedlac in a report in the Business Day of 18/09/12,
 - Alistair warns further;
 - ***“the irony,..., is that these frameworks [referring to Nedlac and other forums for collective bargaining] have been there for more than a decade, during which they have been used with tremendous success. The key challenge now is to examine these frameworks and accords in the light of new challenges, and to ensure they are used in the most effective way”***
 - We all know that late that night a landmark wage hike was agreed
- 

SOME PERTINENT ISSUES

- Confusion - dates of implementation during the first year of the extension:
 - For Parties it is applicable by agreement
 - For non parties on signature of the Minister
- Agreement term – set by agreement or as gazetted
- Administration and Dispute resolution –levies

Some advantages:

- 14 hour Spreadover
- S&T and Night Out Allowance & other allowances now regulated
- Industry Retirement Fund – now available
- Collective bargaining
 - Protected Strikes
 - Controlled environment



2014 AND BEYOND

- COUNCIL INVESTIGATION / RESEARCH
 - Impact of the economy on Road Passenger Sector
 - Impact of legislative changes on Road Passenger Sector
 - Comparison of atb increases in Sarpbac v other bargaining councils in last 10 years
 - Driver productivity - research completed
 - How to accommodate different sub-sectors within the council – under review



CONCLUSION

- Take the extension as a positive challenge and assist SARPBAC so that it remain and are seen to be effective
- The council is open to anyone who wish to affiliate and we encourage membership
- Seek alliances with existing Employer Organizations within the Road Passenger Trade (COBEO & SABEA)

THANK YOU

