

November 2007

A Publication of the Chamber of Mines  
of South Africa

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## MAIN ARTICLE

### 2007 Wage Review

This year the unions presented over 60 demands to the Chamber, including demands for wages to be increased by 15% in the case of the NUM and UASA and by 20% in respect of Solidarity. Many of the demands tabled by the unions had significant cost implications, including a minimum wage for underground employees, an increase in the minimum medical incapacity benefit, improvements in paid sick leave and paid accident leave, higher contributions to retirement funds, funeral cover, service increment and numerous special allowances.

This year's negotiations began on 19 June 2007 with a meeting at which the unions motivated both their gold and coal demands. Separate processes then got underway for the gold and coal sectors.

#### *2007 Gold Wage Negotiations*

The employers tabled various offers and some good progress was made on a number of the unions' demands. Wage increases, however, remained in contention, with the NUM in particular being unprepared to accept anything less than a "double-digit" increase. This resulted in somewhat protracted negotiations culminating in intervention by the CCMA after a dispute was declared on 1 August 2007. Conciliation meetings were held on 14 and 22 August 2007. After a lengthy session on the latter date, the unions accepted that sufficient progress had been made for them to take the Chamber's offers back to their members.

Amongst other items, the final agreement covered:

- a minimum basic wage of R3000.00 per month for entry level underground workers;
- a significant increase in the basic wage for entry level surface workers;
- a wage improvement of 8.5% for category 4 to 8 workers;
- a wage offer for all other employees of 8%, with a special arrangement for artisans;
- an improved wage increment of 10% on the wage rates for surface and underground artisans;
- a new basic wage for rock drillers of at least R4000.00 by July 2008;
- an increase in the living out allowance from R1000.00 per month to R1 200.00 by September 2008;
- the provision of 84 days paid sick leave over a two year cycle for all employees;
- the entitlement to 140 days paid occupational disease leave over a two year cycle for employees suffering from pulmonary MDR/XDR TB linked to risk work;

- mine accident leave to be standardised at 140 days paid leave over a two year cycle, with requests for additional leave to be dealt with compassionately at mine level;
- an increase in the minimum lump sum payment for medical incapacity to R10 000, and an inflation linked increase in 2008; and
- agreement on a mechanism to ensure that the terms of service of contractors are in line with generally acceptable conditions of service.

The agreement is for two years. In the second year (with effect from 1 July 2008) wages will be increased by a percentage equal to CPIX plus one percent with a guaranteed minimum of 8%.

The wage agreement was signed on 30 August 2007.

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## *2007 Coal Wage Negotiations*

After two negotiating sessions on 26 June and 3 July 2007, the unions in the coal sector declared a dispute with the employers on 12 July 2007. Two facilitators were subsequently appointed by the CCMA to conciliate the dispute. Conciliation meetings took place on 24 and 31 July and 3 August 2007. On 3 August the coal companies tabled their full and final settlement offers, conditional on acceptance. The NUM indicated that it would recommend the offers to its membership. UASA and Solidarity requested strike notices which would entitle them to embark on protected industrial action after giving 48 hours' notice. Some of the members of Solidarity did engage in strike action on some of the collieries. There were varying levels of participation at different mines, but production at all mines continued.

In regard to Kangra Coal and Springlake Colliery, bilateral meetings, facilitated by the Chamber, took place between the mines' management and the leadership of the NUM in the KwaZulu Natal region. These meetings took place on 3 September 2007 and both companies revised their offers. The NUM undertook to recommend the revised offers to its members.

The two-year wage agreement for Anglo Coal, Delmas Coal, Eyesizwe Coal, Optimum Colliery and Xstrata Coal SA was signed on 30 August 2007. The agreement in respect of Kangra Coal and Springlake Colliery was signed on 7 September 2007.

The wage increases for category 3 – 8 employees was 10% and increases for Miners, Artisans and Officials ranged from 7.5% to 9%.

Both agreements provided that in 2008 the Collieries would increase salaries and wages with the average of the March, April and May 2008 increases in the Consumer Price Index excluding interest rates on mortgage bonds (CPIX) plus 1% provided that employees would receive a guaranteed minimum increase of 8%, with the exception of Optimum Colliery which guaranteed CPIX plus 1.5%.

In addition to wages, the coal agreement dealt with a range of other issues, including:

- a guaranteed R3000 minimum salary for underground employees on most collieries;
- increases to living out and housing allowances;
- 30 calendar days' annual leave;

- 140 days paid mine accident leave over a two year cycle;
- 84 days paid sick leave over a two year cycle, with a special dispensation in the case of pulmonary MDR/XDR TB where the mine accident leave will be granted once sick leave has been exhausted;
- five paid and four unpaid days of family responsibility leave;
- a minimum lump sum payment of R10 000 for medical incapacitation or repatriation;
- options relating to funeral cover; and
- agreement on a mechanism to ensure that the terms of service of contractors are in line with generally acceptable conditions of service.

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## TOPICAL ISSUES

### Establishment of a Bargaining Council in the Mining Industry

Discussions with the unions on the possible establishment of a bargaining council for the mining industry were held in abeyance during the wage review. The NUM has now contacted the Chamber and asked that the discussions resume.

Just prior to the wage review, important discussions took place relating to the position of contractors in a possible bargaining council. The Association of Mining Contracting Companies has been fully involved in these deliberations. It has been accepted by the unions and the Chamber that mining contracting companies do not own the mines and are not in possession of mining right licences. In addition, contracting companies operate across all commodities and have a presence in most geographical areas. Revenue earned by mining contracting companies is not determined by the sale of minerals or product, but rather as a contracted fixed margin outlined in a commercial contract with the mine owners. Mining contracting companies also operate in a true contracting environment where all the projects have defined commencement and completion dates. For all these reasons it has been agreed that contractors should be accommodated in a separate, dedicated sub-council of a mining bargaining council.

The Chamber has undertaken to compile a list of all the mining contractors involved in the industry. An independent researcher is in the process of being engaged to conduct a survey of contractors.

Also still to take place is a workshop for small gold and coal producers which are not members of the Chamber. The objective of the workshop will be to inform the small producers about bargaining councils, and also the impact a bargaining council might have on them.

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### Industry Retirement and Risk Benefits

A sub-committee, representative of all parties, as well as the principal officers of the MPF, the MEPF and Sentinel,

has been established to deal with the appointment of an expert who will undertake an investigation into the risk benefits system of the MPF and develop alternative risk benefit models for consideration.

The sub-committee feels that this investigation should not duplicate actuarial investigations routinely done by retirement funds, including the MPF. The investigation will be more orientated towards alternative options and policies, rather than being a pure 'number-crunching' exercise.

Discussions with the MPF's Board of Trustees regarding the appointment of an independent actuary to do the following are on-going:

- compile a status report on the current and projected risk profiles and risk benefit costs of the MPF with the assistance of the resident actuary;
- investigate various risk benefit models; and
- investigate other technical issues, such as possible causes of the under-funded risk benefit pool and the role of insurance principles.

It is hoped that the investigation will be conducted and will assist the MPF to position itself to create sustainable solutions to meet the challenges it is facing, such as the depletion of the risk reserves.

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## Sector Partnership Committee & Implementation Structures

The tripartite Sector Partnership Committee, on which the Chamber is represented, is a sub-structure of the Minerals and Mining Development Board and has a mandate to support the Board in executing its responsibilities in terms of the Mineral and Petroleum Resources Development Act. The Sector Partnership Committee oversees the activities of its three working committees and reports on their progress to the Board. The three working committees deal with transformation, beneficiation and the promotion of the industry.

During 2006 the Sector Partnership Committee and its working committees did not function as efficiently and effectively as had been hoped. In order to ameliorate this situation these bodies held a strategic workshop on 29 March 2007 with a view to identifying the major challenges that needed to be addressed and to developing a plan to ensure that the Sector Partnership Committee could deliver on its mandate in an effective manner.

A process to re-establish the three working committees – now called Implementation Structures – was agreed and has been put into effect. The Implementation Structures are currently in the process of developing business plans which will guide their future deliberations.

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## Gold Sector Project

Two facilitators, Messrs Meshack Ravuku and Jeff Leaver, have been appointed to champion the work of the Gold Sector Project and to drive the collaborative processes forward.

Two issues are being targeted for priority attention. The first is a large scale collaborative effort on skills development. A

workshop to facilitate the development of a business plan for the initiative will take place on 16 November 2007. Skills development experts from the producers, unions and DME will participate.

One of the NUM's demands during the 2007 wage review related to the establishment of an integrated mining development agency. In the gold negotiations it was agreed that the Gold Sector Project facilitators should be asked to investigate the feasibility of a merger between the Mining Development Agency and TEBA Development. Preliminary discussions with both organisations have already taken place and will continue in the months ahead.

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## Housing

In the mining industry, particularly in gold mining, single sex hostels are still in existence. In terms of the Mining Charter, the companies must establish measures for the upgrading of hostels, the conversion of hostels to family units and the promotion of home ownership options for mine employees. In 2003, the gold companies and the unions concluded a framework agreement on accommodation which provides that 50% of employees should be in a position to exercise accommodation options, including family options, by the end of 2009. In addition, the agreement provides that the parties commit themselves to normalise mining communities and allow normal accommodation options by the end of 2013. To-date, large sums of money have been spent by the companies to convert hostels into family accommodation or into single occupancy units. Some companies have also made land available to local municipalities for the building of low cost housing in the areas of the mines.

Currently, the gold mining companies are affording those employees who opt to move out of the mine hostels and live in accommodation off the mine premises, a so-called living out allowance of R1 100 per month which will be increased to R1 200 per month by September 2008. So far, approximately a third of those employees who have been afforded this option, have exercised it.

In the coal mining industry, few hostels remain and most employees are residing in the towns surrounding the mines. During the 2007 wage negotiations, the coal companies and unions – in the context of the demands relating to living out and housing allowances given to employees - agreed that key stakeholders, being the collieries, unions and government, should explore options on how best to ensure how all of the recipients of housing-related allowances can obtain access to sustainable home ownership in reasonable proximity to the collieries. This is an issue that will be taken forward in the near future.

At the beginning of this year, the Department of Housing commissioned a study to evaluate the various forms of employer assisted housing (EAH) schemes currently in use by non-government employers in the country. Amongst others, this study will have to:

- identify the main forms of EAH schemes currently in use by non-government employers;
- establish the merits of each identified form of EAH schemes;
- quantify the current employer assisted mechanisms (in units and Rands) and estimate possible future scenarios;
- determine how they complement the Department's

- Breaking New Ground Strategy; and
- recommend the most suitable forms based on their characteristics and a policy or legislative framework that would enhance these schemes.

Ashira Consultants have been appointed to undertake this study and have indicated that they would finalise their report in December.

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## Social Security and Retirement Reform

Two government departments have made proposals about retirement reform and social security. In February 2007 the National Treasury released its second discussion paper which, in essence, proposes:

- mandatory participation for all employees in a national social security system, up to an agreed threshold, providing basic retirement benefits;
- additional mandatory participation in private occupational retirement funds for all employees earning above the threshold; and
- supplementary voluntary savings.

Late in May 2007, the Department of Social Development published a discussion document entitled "Social Development: Reform of Retirement Provisions" to launch a public consultation process on retirement reform. The department's view is that a comprehensive social security system must be developed based on three "pillars":

- a non-contributory system of social assistance providing a safety net for the most vulnerable;
- a mandatory contributory system of social insurance covering all income earners; and
- a voluntary scheme in terms of which all are free to purchase additional cover.

BUSA has held meetings with representatives from both the National Treasury and the Department of Social Development, and further engagement is anticipated. This is necessary because there are differences between the two discussion papers currently in the public domain.

The Chamber has established a Social Security and Retirement task team to consider the proposals from the National Treasury and the Department of Social Development with a view to developing a mining industry response. This task team's proposals will be fed into the BUSA task team and, subsequently, into the NEDLAC process.

The NEDLAC Management Committee has agreed that the Department of Social Development and the National Treasury should be asked to present their documents at NEDLAC.

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## ORGANISATIONS, STATUTORY BODIES & COMMITTEES

### Chapter Six of the Companies Bill, 2007

As was indicated in the March edition, the dti published the Companies Bill, 2007 for public comment in February 2007. Chapter six of the Bill, which deals with business rescue, has important implications for industrial relations. In terms of this chapter, a supervisor appointed to develop a business rescue plan for a company in financial difficulties may "consult" with the employees about the plan before it is submitted to the shareholders for consideration. In addition, the employees may address the shareholder meeting on the plan. Furthermore, should the plan include retrenchment, the employees are afforded additional voting power and are allowed to vote on the plan. Once the plan has been approved by the shareholders and creditors, and it includes retrenchment, the supervisor must comply with all the retrenchment provisions contained in the Labour Relations Act. It is thus foreseen that the provisions in chapter six pertaining to retrenchment might seriously delay the implementation of a rescue plan.

The Chamber has developed a position on the Companies Bill, including chapter six, and this has been incorporated into BUSA's position paper which formed the basis for business' discussions with the dti and the other social partners in NEDLAC. The social partners have concluded their deliberations and are in the process of compiling a NEDLAC report.

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### Employment Service Regulations

The Department of Labour has released for comment draft Employment Service Regulations in terms of which the Department intends to implement an internet based employment service system. In terms of the proposed system, every employer will have to link to a Departmental Labour Centre in the geographical area in which they operate. Any vacant positions – the Department is calling them "placement opportunities" – have to be reported to the Labour Centre within 24 hours.

The Department of Labour has made a presentation on the draft regulations to the NEDLAC Labour Market Chamber. The social partners indicated that the Department needs to give more consideration to certain aspects of the draft regulations such as:

- it is not made clear when the 24 hour period will commence;
- the case of companies that operate in different parts of the country, but which have centralised recruitment processes has not been addressed;

- the system will be onerous for small businesses, many of which might not have access to the internet;
- the draft regulations do not deal with the question of seasonal workers; and
- a decision as to whether domestic workers will be included in the system has not been taken.

The Department has undertaken to revert to the Labour Market Chamber once it has considered all the comments on the draft regulations. Written comments have also been submitted by BUSA.

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## Labour Appeal Court

On 3 October 2007 the Judicial Service Commission (JSC), together with representatives from NEDLAC, met to interview three candidates who had been short-listed for positions on the bench of the Labour Appeal Court. All three candidates, who are currently Judges of the High Court, have been recommended by the JSC for appointment by the President. These are:

- Judge Dennis Davis of the Cape Provincial Division;
- Judge Monica Leeuw of the Bophuthatswana Provincial Division; and
- Judge Kampepe of the Witwatersrand Provincial Division.

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## Future of the Labour Courts

Earlier in the year, the Minister of Justice and Constitutional Development indicated in Parliament that she was still in consultation with the judiciary about the Superior Courts Bill which provides for the folding-in of the Labour Court into the High Court and the Labour Appeal Court into the Supreme Court of Appeal. Upon learning of this development, NEDLAC addressed a letter to the Minister urging her to engage with the social partners at NEDLAC about the Bill as the partners are of the view that the Labour Courts should retain their separate status. This meeting took place on 15 May 2007 and further engagement is envisaged.

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