

IN THE EXEMPTION APPLICATION OF:-

INTERWASTE (PTY) LTD

Applicant

and

**NATIONAL BARGAINING COUNCIL FOR THE
ROAD FREIGHT AND LOGISTICS INDUSTRY (Council)**

Respondent

DECISION

1. The Applicant applied for exemption to exceed the prescribed number of overtime hours allowed per week for the period of 02/09/2013 to 02/10/2013.

2. The matter appeared on the Agenda of the Exemptions Body meeting held on the 16th September 2013:

3. The following were present:-
 - 3.1 Mr Y. Nagdee - Chairperson of the Exemptions Body
 - 3.2 Mr G. Wessels - Member of the Exemptions Body
 - 3.3 Ms R. Manning - Member of the Exemptions Body
 - 3.4 Mr P. Mndaweni - Committee Secretary of NBCFRLI
 - 3.5 Ms J. Nel - Exemptions Officer of NBCFRLI
 - 3.6 Mr Botha - HR Manager

4. **APPLICANT'S SUBMISSIONS**

The Applicant submitted, inter alia, as follows:

"NATURE OF APPLICATION:

Application for exemption requested due to operational requirements and in accordance with client requirements for shut down period.

Employees will be working longer hours, over and above average hours per week.

STATEMENT OF MATERIAL FACTS:

1. *Interwaste (Pty) Ltd is a contracted client of Sasol for the Shut Down Project in Secunda.*
2. *The Shut Down runs 24/7 commences on 02/09/2013 and is estimated to be complete by 02/10/2013.*
3. *As a result of point 2, employees are required to work excessive hours.*
4. *Employees were consulted in this regard and have agreed to work the excessive hours.*

5. *Employees will be provided with transportation where applicable.*
6. *Employees will be provided with meal vouchers where applicable.*
7. *Employees will be paid ordinary wages and in addition overtime in accordance with collective agreements.*
8. *Employees will be incentivised.*
9. *The Shut Down is for the above period.*

APPLICANT'S PAST RECORD:

Yes, Interwaste complies with Council's Collective Agreement and exemption certificate and never before applied for similar exemption.

ANY SPECIAL CIRCUMSTANCES:

No – upon receipt of exemption, job opportunities may be created which will have a positive impact on community upliftment through job creation.

ANY PRECEDENT THAT MIGHT BE SET:

No – Shut Down is an isolated incident and is specific to client requirements.

UNFAIR COMPETITION:

None – Employees will be paid wages (ordinary) and overtime.

COLLECTIVE BARGAINING:

N/A – Exemption is requested for limited duration. The agreement is beneficial to both employees and the employer.

POTENTIAL FOR LABOUR UNREST:

N/A – Employees agreed to work extended hours. Employees will not be denied their benefits and will be paid.

INCREASED EMPLOYMENT:

Possibility of more jobs of a better quality

5 x truck assistants

2 x drivers

EXPLOITATION:

N/A - Employees agreed to work extended hours. Employees will be paid overtime worked.

JOB PRESERVATION:

As we are contracted to the client possible further job creation.

SOUND CONDITIONS OF EMPLOYMENT:

- *Compliance with Collective Agreement and fair labour practices.*
- *Transport provision – staff bus provided for staff collection and drop off before and after shift.*
- *Meal (allowance) – to be provided for staff who work longer than shift requirements.*
- *Stay out allowance for long haul drivers on extended shifts.*
- *Dedicated Sheq Officer for health and safety issues (fatigue).*

POSSIBLE BENEFITS:

Sustainable long term employment.

HEALTH AND SAFETY:

Safety first approach:

- 1. Dedicated Sheq Officer***
- 2. PPE provided***

INFRINGEMENTS OF BASIC RIGHTS:

Due to excessive hours, employees may not get mandatory 12 hour rest period and/or 36 hours consecutive rest period.

Employee will be working over the overtime period stipulated in collective agreement.

FINANCIAL STABILITY:

Future income and priority work during shut down, there is scope to sustain a larger operation.

IMPACT OF PRODUCTIVITY:

100% - we are required to complete all tasks handed by the client, or risk non-conformance by the client and suffer (possibly) loss of business and to sustain operations ion the shutdown.

FUTURE RELATIONSHIP WITH EMPLOYEES' TRADE UNION:

Continued sustainable relationship through collaborative partnership.

Employees were engaged with regards to overtime and there is a mutual agreement.

OPERATIONAL REQUIREMENTS:

100% - cannot perform required task without staff for Shut Down period."

5. **COUNCIL'S SUBMISSIONS**

The Council submitted as follows:

- 1. The Applicant has a good compliance history with Council Agreements. Applicant registered with Respondent on 15/08/1989 and is situated in Johannesburg.*
- 2. Applicant is applying for exemption to exceed the prescribed number of overtime hours allowed per week for the period of 02/09/2013 to 02/10/2013.*
- 3. The Union is in support of the exemption application relating to overtime.*

4. The Exemptions Body is guided by the Part 2 – Hours of work of the Collective Agreement and Clause 4(8) of the Exemptions and Disputes Resolution Agreement. We therefore trust that the panel will make their decision accordingly.”

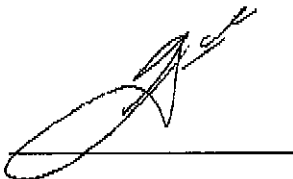
6. **ANALYSIS**

- 6.1 The submissions made by the Applicant were considered. The application is for a period of 1 month based on the Sasol shutdown. The Applicant has demonstrated that special circumstances exist for the granting of the application and that it intends working 12 hour shifts based on its operational requirements;
- 6.2 The application has the support of SATAWU. The Applicant has introduced the following measures:
- 6.2.1 Employees will be provided with transportation;
- 6.2.2 Employees will be provided with meal vouchers;
- 6.2.3 Overtime will be paid in terms of the Main Agreement;
- 6.2.4 A dedicated SHEQ official is in place.
- 6.3 The Exemptions Body is satisfied that the criteria for the granting of an exemption has been met.

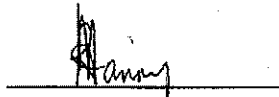
7. **DECISION**

Accordingly the Applicant is granted an exemption to exceed the overtime limit for the period 2nd September 2013 to 2nd October 2013.

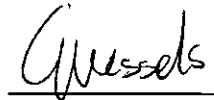
DATED THE 27TH DAY OF SEPTEMBER 2013 AT BRAAMFONTEIN,
JOHANNESBURG.



MR. Y. NAGDEE
Chairperson of the
Exemption Body



MS R. MANNING
Member of the
Exemption Body
I agree



MR G. WESSELS
Member of the
Exemption Body
I agree