

**13 April 2023**

**INDUSTRY CIRCULAR**

**ADJUSTMENT TO ONLINE RETURNS FOR TEMPORARY EMPLOYMENT SERVICES**

During the course of 2022, it became evident that a number of temporary employment services were submitting returns with incorrect information, on occasion leading to non-compliance with the Main Collective Agreement.

Some temporary employment services were making use of the “P” code relating to part-time workers where the relevant employees were working fluctuating hours. The Main Collective Agreement defines a part-time worker to be “*an employee who does not work full-time, but who is employed on a permanent basis and who is only required to work a fixed or limited number of hours per day, per week or per month*”. The “P” code is thus not applicable to employees working fluctuating hours.

In other instances, ordinary employees’ wages were being altered every month to reflect payment on the basis of hours worked rather than in accordance with the prescribed weekly minimum wage. This is not in compliance with the Main Collective Agreement which stipulates a minimum weekly wage (and associated benefits) which is not dependent upon the hours actually worked.

To ensure that the temporary employment services comply with the provisions of the Main Collective Agreement, the system has been adjusted accordingly.

In this regard, the adjusted system will no longer allow ordinary employees of a TES to be captured:

- So that their monthly remuneration is less than that prescribed by the minimum weekly wage (and associated benefits) unless an exemption applicable to that employee has been granted. Such an exemption could not be of a generic nature, but it must be specific to the affected employee(s).
- As part-time workers, unless they work a fixed or limited number of hours, and they comply with Clause 61(1) of the Main Collective Agreement: “*the written contract of employment of a part-time employee must specify the hours the employee is required to work each day, week or month*”. Consequently,

appropriate employment contracts will be required before the use of the “P” code.

The adjusted system is necessary to align it with the Main Collective Agreement and most importantly to ensure that the temporary employment services comply with the provisions of the Main Collective Agreement. However, this system adjustment does not apply to temporary employees of a temporary employment service. In accordance with Clause 66(1)(b) of the Main Collective Agreement, temporary employees of a TES may be paid and receive benefits simply on the basis of hours worked.

To enable those temporary employment services that have previously been submitting returns not in compliance with the Main Collective Agreement as identified above, the Council has held back on the implementation of the adjusted system. The system adjustment will be introduced through the online platform and will be enforced with effect from the end of May 2023.

All TES enterprises are therefore required during this time to ensure their reporting systems are aligned to the above. Any TES enterprise with queries in this regard is welcome to contact the local Designated Agent.

For the sake of guidance of the Industry, this circular is issued as a Ruling by the Council in terms of Clause 68 of the Main Collective Agreement.

Yours Sincerely

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Musa Ndlovu

National Secretary

**(This document has been sent electronically and is therefore not signed)**