

2 August 2021

INDUSTRY CIRCULAR

TEMPORARY RELIEFS FOR INDUSTRY EMPLOYERS AND EMPLOYEES AMIDST OF LOOTING AND BURNING OF TRUCKS AND WAREHOUSES IN KWAZULU-NATAL AND GAUTENG.

South Africa experienced an eruption of social unrest which affected two provinces, Kwa-Zulu Natal and Gauteng. Some of the companies that are in the Road Freight and Logistic Industry have been severely affected by this social unrest in that their trucks and/or warehouses are partly and completely damaged.

The NBCRFLI recognises the negative impact this is having in our industry especially on those companies which will not be able to operate (wholly or partly). In this regard, it has resolved to put in place measures to mitigate the negative impact of the social unrest, hence the following temporary relief measures are available. The following temporary relief measures will be implemented:

1. Implementation of Short Time

Clause 64 of the Main Collective Agreement related to the implementation of short time is extended to only those companies in the industry who were negatively affected by the social unrest, provided that:

- 1.1 Short time is only implemented by an employer who is either not fully operating or partially operating his/her truck(s) or warehouse because it has suffered damages due to the impact of the social unrest or employer is not fully operating or partially operating because the warehouse of his/her service provider or client has suffered damages due to social unrest;

- 1.2 An employer who intends to or who was necessitated to implement short-time due to the impact of social unrest, must inform the National Secretary. Where employees are available for consultation, they should be consulted together with their respective trade unions in writing;
- 1.3 Communication referred in 1.2 above should detail the reason/s for the short time and the expected duration which should not be more than a period of 2 months, where an extended period of more than 2 months is required, an assessment should be made prior the two months period and further written motivation should be submitted to National Secretary and affected employees together with their respective trade unions;
- 1.4 The aforesaid employer is also requested to submit the SAPS case number together with a sworn statement or affidavit, confirming that the company suffered damages due to social unrest, or a sworn affidavit confirming that a supplier or client has suffered damages to the point where it impacted the employer's capability to operate at full capacity. NBCRFLI reserves a right to send an agent to inspect to confirm any information submitted to NBCRFLI;
- 1.5 No employer is allowed to replace an employee who is not working during the period of the unrest with the TES or Sub-Contractors and casual workers;
- 1.6 Should an employee be replaced by someone else including temporary employees, such conduct will be regarded as non-compliance with the Main Collective Agreement and as a result, the affected employee or his representative has a right to lodge a dispute at the Council;
- 1.7 An employer who opts to make use of the temporary relief measures may not at the same time, apply for exemption from any of the provisions in the Main Collective Agreement, or embark on a Section 189 process (retrenchment) whilst he/she is implementing short time;
- 1.8 An employer who has already implemented the short time as a result of the economic impact caused by the social unrest **before** this circular was issued is

also obliged to comply with the requirements stated in this Circular otherwise this will be deemed as non-compliant;

- 1.9 Non-compliance with paragraphs 1.2 and 1.3 above, will be dealt with through the Council compliance process and applications that do not meet the requirements will not be approved.

For the purposes of this Circular, short-time means a temporary reduction in the number of ordinary hours of work owing to the shortage of goods to be transported as a result of the economic impact caused by the social unrest.

2. Relaxation of Restrictions/Requirements for Occasional Leave

- 2.1 Kindly note that the restrictions/requirements for occasional leave have been relaxed during the whole period of the national lockdown and are still applicable during the social unrest period.

3. Leave Pay Fund

- 3.1 When a company is unable to operate or is operating on a partial basis due to social unrest, such a company can claim immediately from NBCRFLI from Leave Pay Fund for each employee, provided that there are leave days that have accrued by the employee. A written confirmation including electronic communication for leave application is required from both employer and employee.
- 3.2 A confirmation letter from the employer in a company letter head must be submitted as proof that the company was not in operation (wholly or partly) because the company suffered damages due to the social unrest.
- 3.3 The aforesaid employer is also requested to submit the SAPS case number together with a sworn statement or affidavit, confirming that the company suffered damages due to social unrest, or a sworn affidavit confirming that a supplier or client has suffered damages to the point where it impacted the employer's

capability to operate at full capacity. NBCRFLI reserves a right to send an agent to inspect to confirm any information submitted to NBCRFLI;

- 3.4 All documentation must be submitted through the NBCRFLI's online application process.

4. Electronic Exemption Applications

- 4.1 Where a company that is in distress due to not being able to operate (wholly or partly) has opted not to apply for short time relief measure as per paragraph 1 above, the company can therefore apply for the exemption process in terms of section 74 of the Main Collective Agreement. In this regard, the company will be allowed to submit application for exemption using this e-mail address: exemptions@nbcrfi.co.za.
- 4.2 A company applying for exemption must inform and consult with the affected employees and the trade union(s) and its members where employees belong to a trade union
- 4.3 Exemption applications of all companies affected by this unrest will be prioritised.

We encourage affected companies due to social unrest to apply for government relief where applicable, if companies have opted to apply for government relief, they should therefore inform Council for further assessment to determine if temporary relief measures (short time) are still required.

Should you require clarity, please contact your Local Designated Agent.

Yours Faithfully

Musa Ndlovu
National Secretary

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