

A. VARIATIONS POLICY AND PROCEDURE

1. There shall be established in terms of clause 8 of the constitution, a variations committee. The purpose of the variations committee is to consider applications from employers in the industry for variations from the terms of the Basic Conditions of Employment Act, where the terms in question are not regulated by a sector substantive agreement or any other Council agreement.
2. The provisions of section 49 of the Basic Conditions of Employment Act shall apply in so far as any application for a variation is concerned.
3. All applications must be on the prescribed form, duly signed by an authorised representative and submitted to the General Secretary of the Council who will arrange for the application to be considered by the variations committee. This may be dealt with electronically.
4. If any member of the committee has an objections to the granting of an application, a meeting of the committee shall be convened to consider the application.
5. The applicant or any affected person or party may be called on by the committee to clarify any aspect of the application and/or to provide any additional information.
6. If the application has the consent of all the registered trade union/s that represent the employees in respect of whom the variation is to apply, proof of that consent should be attached to the application. If no registered trade union(s) is/are involved, the consent of all affected employees must be indicated by their signatures on the application.
7. In the absence of consent proof of service of a copy of the application on all registered trade unions that represent employees affected by the application must be attached to the application. If the majority of affected employees are not represented by a registered trade union, proof of reasonable steps taken to bring the application to the notice of employees must be attached to the application.
8. An application for variation shall not be considered if the content of the application is/are covered by a binding arbitration award.

9. In cases of urgent applications, details may be faxed or delivered to the General Secretary of the Council, accompanied by a substantive explanation as to the urgency of the application. The Chairperson, Vice-Chairperson, and or the General Secretary may make a decision, which shall be communicated, to the applicant without delay.
10. The Council shall issue to every company to whom a variation has been granted a variations licence, setting out the following:
 - The name of the company concerned.
 - The sections of the Act which have been varied.
 - The extent of the variation.
 - Employers and/or employees in respect of whom the variation applies.
 - The conditions subject to which the variation is granted, if any.
 - The period of the variation.
 - The date from which the variation shall operate.
 - The area in which the variation shall operate, if not nationally.
11. The Council shall ensure that:
 - All variation licences issued are numbered consecutively.
 - The Council retains the original of each licence.
 - A copy of the variation licence is sent to the applicant.