



the dpsa

Department:
Public Service and Administration
REPUBLIC OF SOUTH AFRICA

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CIRCULAR NO: 11 OF 2023

TO: ALL HEADS OF DEPARTMENTS AND INSTITUTIONS

TO: ALL THE ESSENTIAL SERVICES EMPLOYEES EMPLOYED IN THE PUBLIC SERVICE

TO: SOUTH AFRICAN POLICE SERVICE

AND CC TO: NATIONAL EDUCATION, HEALTH AND ALLIED WORKERS UNION

INTERDICTION ON STRIKE ACTION, PICKET, OR ANY OTHER FORM OF INDUSTRIAL ACTION IN ESSENTIAL SERVICES

1. The DPSA hereby draws to the attention of all parties the decision of the Labour Appeal Court (the LAC) delivered on 13 March 2023 which orders as follows-
 - (a) The strike action, picket, or any other form of industrial action by NEHAWU, its members and employees who are employed in an essential service, as defined in section 61(1)(d) of the Labour Relations Act 66 of 1995, which commenced on 6 March 2023 is interdicted with immediate effect and NEHAWU and all such essential service employees are restrained and prevented from continuing with or participating in any such strike, picket or any other form of industrial action;
 - (b) The strike action, picket, or any other form of industrial action by NEHAWU, its members and employees employed at SASSA, SIU and SANBI which commenced on 6 March 2023 is interdicted with immediate effect and NEHAWU and all such employees are restrained and prevented from

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continuing with or participating in any such strike, picket or any other form of industrial action.

- (c) NEHAWU is ordered to inform its members and officials and all persons to whom it had given notice of the strike in every province, including but not limited to every hospital and clinic in South Africa at which it has members within the essential services of this LAC order, through publication on social media, by email and by all other appropriate means available to it, by no later than 13h00 on Monday 13 March 2023.
 - (d) The LAC Order remains in force until the final determination of the appeal against the Labour Court order interdicting the NEHAWU strike action.
2. The DPSA therefore accordingly instructs that **all essential services employees in the public service are strictly prohibited from striking** in terms of the Labour Relations Act, 1999 (the LRA). A strike is defined in section 213 of the LRA as *"the partial or complete concerted refusal to work, or the retardation or obstruction of work by persons who are or have been employed by the same employer or different employers, for purpose of remedying a grievance or resolving a dispute in respect of any matter of mutual interest between the employer and employee, and every reference to "work" in this definition includes overtime work, whether voluntary or compulsory"*.
 3. In terms of the LAC interdict, all employees rendering services designated as essential services in the public service must refrain from participating in any strike action and return to work immediately.
 4. The list of designated essential services in the public service as confirmed by the Essential Services Committee is attached for ease of reference and includes, but not limited to, nursing, medical and paramedical services, court services, computer services provided by the National Treasury (including PERSAL system, Social Pensions System), support services (including catering, porter, cleaning, reception and laundry services).
 5. All employees must refrain from any unlawful conduct during the strike action. Unlawful conduct includes engaging in any form of violence, damage to State property, obstructing or intimidating other employees, members of the public or vehicles from entering or leaving the departments or institutions.
 6. Any employee who fails to comply with the court order will be subjected to disciplinary action, including possible dismissal. Any person committing any criminal acts in pursuit of strike action will be subjected to criminal proceedings by the relevant law enforcement authorities. The principle of 'no work, no pay' will be strictly applied.
 7. All Heads of Department are urged to-

- (a) ensure that the necessary strike management procedures articulated more fully in previous DPSA circulars are adhered to;
 - (b) ensure that this Circular is communicated to all departments and institutions and essential services employees; and
 - (c) contact the South African Police Services for any assistance where criminal conduct is reported or anticipated to prevent loss of life, damage to state property or any other harm to person or property.
8. In addition, the Court has ordered that NEHAWU inform its members and officials and all persons to whom it had given notice of the strike in every province, including but not limited to every hospital and clinic in South Africa at which it has members within the essential services, of the order of this Court, through publication on social media, by email and by all other appropriate means available to it, by no later than 13h00 on Monday 13 March 2023.
9. Any non-compliance with the above court order will necessitate contempt proceedings.


MS YOLISWA MAKHASI
DIRECTOR GENERAL

DATE: 13 March 2023

**Commission for Conciliation, Mediation
and Arbitration**

28 Harrison Street, Cnr Main Street, Johannesburg
Private Bag X096, Marshalltown, 2107
Telephone: (011) 377-6645, Telefax: (011) 834-7386

ESSENTIAL SERVICES COMMITTEE



09 November 2022

To: PSCBC, PSA, PHSDSBC, DPSA, DOH, DSD & DOH

Good Day,

ESSENTIAL SERVICES IN THE PUBLIC SERVICE

It has come to the ESC's attention that there is industrial action planned by the Public Servants Association (PSA) on Thursday, 10 November 2022. The ESC would like to remind parties that in terms of Section 65(1)(d) of the Labour Relations Act (LRA) employees rendering essential services are prohibited from striking.

In the event that there is a dispute or clarity is sought on whether any employees in the state render the below mentioned essential services, a dispute may be referred to the ESC in terms of Section 73 of the LRA and the ESC will determine the dispute on an urgent basis so as to clarify and/or clearly spell out if such employees should participate in the said strike or not.

For completion herewith is the list of services designated as essential:

1. Emergency health services and the provision of emergency health facilities to the community or part thereof;
2. Nursing; and
3. Medical and paramedical services.
4. The following support services:
 - 4.1. Catering;
 - 4.2. Medical records;
 - 4.3. Security;
 - 4.4. Porter and reception;

12. Services provided by nursing homes that are registered as welfare (Social Development) organisations, to patients in need of moderate (level 2) and maximum (level 3) care:

- 12.1. Emergency health services and the provision of emergency health facilities;
- 12.2. Nursing; and
- 12.3. Medical and paramedical services.
- 12.4. Services in support of the services referred to in paragraph (h) above
 - 12.4.1. Physiotherapy;
 - 12.4.2. Dispensary;
 - 12.4.3. Catering;
 - 12.4.4. Laundry;
 - 12.4.5. Boiler;
 - 12.4.6. Transport; and
 - 12.4.7. Security.

13. Computer services provided or supported by the Government Communications and Information Systems of National Treasury:

- 13.1. The Persal system;
- 13.2. The social pension system;
- 13.3. The hospital system; and
- 13.4. The flood control system.

14. The whole of the service provided by the South African National Blood Service.

15. The Whole of the services provided by old Age Homes registered in terms of the National Welfare Act, 1978 (Act No 100 of 19978, Children's Homes and places of care in terms of section 30 of the Child Care Act, 1983 that are state owned, state funded or state subsidised.

16. The services required for the functioning of the courts including the Thuthuzela Care Centre are designated as essential services. This designation excludes the following services: -

- 16.1. Human Resources at courts, regional and provincial offices of the Department of Justice and the National Prosecuting Authority.
- 16.2. Administrative services at the Regional and Provincial Offices of the Department of Justice and National Prosecuting Authority.

- 21.2. Diagnostic assessments of new referrals in respect of people with intellectual and psychiatric disabilities;
- 21.3. Psychological assessment;
- 21.4. Therapeutic Counselling services and any other form of counselling;
- 21.5. Mental health crisis management;
- 21.6. Court preparation and assistance for victims who are users;
- 21.7. Rehabilitation services;
- 21.8. Treatment (including assistance with adherence to medication);
- 21.9. Training (only to the extent that it is offered to the mental health users.

- 22. The services rendered by medical Officers;
- 23. Radiology services rendered in and for the public services;
- 24. Security Services in Education Institutions;
- 25. The services provided b. By House Parents at boarding schools;
- 26. Sanatorium services / dispensing of medicine to learners at boarding schools;
- 27. Security at boarding schools
- 28. The service of Road Traffic incident management
- 29. Weather services in support of marine and disaster management services.

Kind regards



Ms. Zamangwevu Moshani
Essential Services Manager