

CIRCULAR 15 / 2023

**FROM : RIO NOLUTSHUNGU
CHIEF EXECUTIVE OFFICER (ACTING)**

**TO : EXECUTIVE MAYORS/ MAYORS; POLITICAL HEADS OF CORPORATE
SERVICES PORTFOLIOS, MUNICIPAL/ CITY MANAGERS**

DATE : 15 MARCH 2023

**CONFIRMATION OF THE SECTION 77 OF THE LABOUR RELATIONS ACT NOTICE TO
NEDLAC BY SAFTU RELATED TO THE 20 MARCH 2023 PLANNED NATIONAL
SHUTDOWN AND ADVISORY NOTES TO MUNICIPALITIES**

1. PURPOSE OF THE CIRCULAR

The purpose of this Circular is to:

- a) Apprise all municipalities about the planned national march by the trade union federation, the South African Federation of Trade Unions (SAFTU), a registered trade - union federation registered in terms of the Labour Relations Act, in terms of Section 77 of the Labour Relations Act, 1995, as amended.
- b) Request municipalities to adhere to the attached directives.

2. BACKGROUND AND LEGAL CONTEXT

In terms of Section 77, which provides for the protest action to promote or defend socio-economic interests of workers, every employee, who is not engaged in an “essential service or a maintenance service has the right to take part in protest action on the following conditions:

- The protest action has been called by a registered trade union or a federation of trade unions;

- The registered trade union or federation of trade unions has served a notice on NEDLAC stating:
 - a) The reasons for the protest action; and
 - b) The nature of the protest action.
- The matter giving rise to the intended protest action has been considered by NEDLAC or any other appropriate forum in which the parties concerned are able to participate in order to resolve the matter; and
- At least fourteen (14) days before the commencement of the protest action, the registered trade union or federation of trade unions has served a notice on NEDLAC of its intention to proceed with the protest action.

The **20 March 2023** is the date that has been reported for the planned National Shut down by the political party, the Economic Freedom Fighters (EFF). On the back of that, SAFTU is on record as having resolved to join the said National shutdown. Subsequently SAFTU has invoked the provisions of Section 77 and filed a notice with NEDLAC.

Section 77 of the Labour Relations Act permits that every employee, who is **not engaged in an essential service or a maintenance service** can participate in a protest action that has been called by a registered trade union and where proof has been provided that a notice has been issued to NEDLAC outlining the reasons for such a protest march. Attached as annexures to this circular are the **Certificate** that SAFTU obtained from NEDLAC in 2021 and the **NEDLAC notice** issued by SAFTU. Please take note that the law does not attach any timelines on the validity of the NEDLAC Certificate.

ADVISORY NOTES TO MUNICIPALITIES AS EMPLOYERS

The protest march is planned to take place on **20 March 2023**. Municipal employees that will take part in the stated protest march will equally be protected in terms of the labour legislation. Municipalities are hereby requested to record the number of employees that will take part in the protest march. This information is required by the Department of Employment and Labour for their records on the success rate of the protest march. Notwithstanding the fact that the said protest marches are protected, the following contingency measures must be implemented by all municipalities:

- The “**No Work, No Pay**” principle shall apply in respect of all employees that take part therein;
- No employee should be allowed to take leave one week prior or during the protest action;
- All incidents of violence and intimidation must be reported and employees who engage in such conduct must be dealt with in terms of the disciplinary code and procedures;
- Municipalities must ensure SAPS involvement to avoid violence and damages to property.
- All employees engaged in essential services should be informed of their obligations with regard to essential services;
- Section 57 employees to ensure that proper attendance registers be kept during protest march. Attendance registers be kept in the morning and afternoon to avoid employees clocking in and then immediately joining the protest action;
- All municipal vehicles used for service delivery must be secured during the protest march whilst council vehicles may not be used to transport employees participating in the said protest march;
- In the event of employees participating in the protest march locking gates to prevent service delivery, it is advisable to report this action to the Police;
- The unions must be requested to demonstrate that they communicated with members to advise that employees engaged in essential services may not participate in the protest march;
- Replacement labour may be employed during the protest action in respect of all services.
- Municipalities must ensure that all employees who are able and willing to work during the protest action are in a position to do so;
- Municipalities to have a list of full names, designations, ID numbers and details of Union affiliation of all employees engaged in essential services.

For any further enquiries relating to this circular, please contact **Mr. Zwe Ndlala - Senior Manager: Collective Bargaining and Labour Relations** via email zndlala@salga.org.za or on 083 257 7174 or **Mr. Johan van Zyl - Senior Advisor: Labour Relations** via email jvanzyl@salga.org.za or on 072 827 2500.

Yours Sincerely



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