



**DEPARTMENT: PUBLIC SERVICE AND ADMINISTRATION  
REPUBLIC OF SOUTH AFRICA**

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Inquiry H J van der Hoven  
Telephone (012) 314 7447  
File 1/10/1

TO ALL HEADS OF DEPARTMENT

**NOTICE OF INTENDED STRIKE ACTION: SOUTH AFRICAN DEMOCRATIC TEACHERS UNION (SADTU)**

- 1 As you are aware salary negotiations in respect of a new multi-term salary agreement commenced in the PSCBC at the end of April 2004. Due to slow progress in the negotiation process, the employer declared a dispute in an attempt to force parties to focus on the issue at hand.
2. The parties were unfortunately unable to resolve the dispute and a certificate to this effect was issued by the conciliator. This meant that parties were free to exercise their rights in terms of the *Labour Relations Act, 1995 (LRA)*.

In compliance with section 64(1)(d) of the LRA, SADTU notified the State as employer and the PSCBC on 25 August 2004 that its members would be embarking on strike action after the lapsing of the seven day period (i.e. strike action to commence on 2 September 2004). A copy of the strike notice is attached for your information. Please note that the strike notice only covers members of SADTU and that the union indicated that it would inform the employer of any further strike action after 2 September 2004.

4. In view of SADTU's compliance with the legal requirements for strike action, the action is protected under the LRA, meaning that employees who participate in this action do not commit a delict or a breach of contract nor can they be subjected to any disciplinary action by the employer. However, those individuals who misconduct themselves during this action are liable to disciplinary action being taken against them, despite the protection afforded by the Act.
5. The above-mentioned strike action by SADTU will clearly not affect all departments in view of the fact that the union only represents educators. **The information below therefore only pertains to departments affected by the strike action.**

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6. The principle of "no work, no pay" **must** be strictly applied by departments despite the fact that the above actions are protected. The principle should apply for absences of a full day as well as part of a working day. The following calculation rates should be applied:
  - (a) **Employees paid on an hourly basis:**

Pay to be deducted for the hours not worked.
  - (b) **Permanent employees and employees paid on a 6/8 or 5/8 basis:**
    - (i) **Daily rate:** Annual notch (e.g. annual basic salary) divided by 365 and rounded off to the nearest cent.
    - (ii) **Hourly rate:** Daily rate divided by 8 and rounded off to the nearest cent.
7. All deductions made in lieu of the strike action must be captured on PERSAL Function 4.5.4 category 3 code 083 only.
8. Departments who do not effect the deductions will expose themselves to the provisions of the *Public Finance Management Act, 1999* in respect of fruitless and irregular expenditure. The "no work, no pay" principle must be strictly and timeously enforced. In this regard it is important that deductions from salaries of employees who participated in strike action must be effected in the month that the strike action takes place. Should it not be possible, the deductions must be effected in the subsequent month at the latest.
9. Essential services workers are not allowed to participate in the strike action during their working hours. If they do participate, it will constitute an act of misconduct and they must be subjected to disciplinary measures.
10. No leave should be granted for purposes of the strike action. Leave should only be granted under the leave regulations, i.e. for leave purposes in terms of the regulations and not for strike action.
11. It is important that accurate record is kept of employees who participate in the strike action. In this regard it would be appreciated if you could submit –
  - (a) a broad assessment of the number of employees on strike, to the DPSA by 15:00 on the day of the strike; and
  - (b) accurate information to the DPSA within three (3) days of the strike action.
12. To assist the flow of information it is requested that information by provincial departments be submitted to the respective offices of the Premier. The collated information will then be submitted by the latter to the DPSA.

13. The following e-mail address or fax number should be used to forward the information to the DPISA:

santie@dpsa.gov.za/ (012) 314 7908

14. For purposes of the information referred to in paragraph 11(b) above, please use the format as per the attached Annexures.

- ❑ Annexure A provides for capturing of the number of employees involved in the strike action, the number of person days lost and the amount deducted in terms of the "no work, no pay" principle.
- ❑ Annexure B provides for capturing of data on leave taken during this period.

15. Attached please find a draft letter that could be utilised to inform employees of the employer's position regarding the strike action (Annexure C).

16. Please note that discussions with the trade union are being pursued in an attempt to resolve this matter.

17. Your co-operation is appreciated.



DIRECTOR-GENERAL

DATE: 27/08/04

INFORMATION ON STRIKE ACTION

**NB: PLEASE COMPLETE THIS FORM FOR EACH DAY OF THE STRIKE ACTION**

- (a) Department:
- (b) Date of strike action:
- (c) Number of employees involved in strike action (those with regard to whom "no work, no pay" is being applied): \_\_\_\_\_
- (d) Total number of person days lost on day of strike action (every eight hours to count as full day):  
\_\_\_\_\_ (e.g. 300 persons x 1 day = 300 days)
- (e) Amount deducted in terms of the "no work, no pay" principle for day of the strike action (i.e. in respect of all employees involved in the strike action collectively):

I hereby certify that to my knowledge the information provided above is accurate.

HEAD OF DEPARTMENT

\_\_\_\_\_  
DATE

PLEASE RETURN TO DIRECTORATE: LABOUR RELATIONS,  
DEPARTMENT OF PUBLIC SERVICE AND ADMINISTRATION

INFORMATION ON THE APPLICATION OF LEAVE PROVISIONS IN THE PUBLIC SERVICE  
DURING THE STRIKE ACTION

Department: \_\_\_\_\_

Date: \_\_\_\_\_

EMPLOYEES ON LEAVE ON DAYS OF STRIKE ACTION

Date of strike action	Number of employees on leave

If you are unable to furnish the above information, please provide a written explanation:  
\_\_\_\_\_  
\_\_\_\_\_

I certify that the above information supplied, is to the best of my knowledge, correct.

\_\_\_\_\_  
HEAD OF DEPARTMENT

\_\_\_\_\_  
DATE:

PLEASE RETURN TO DIRECTORATE: LABOUR RELATIONS, DEPARTMENT OF PUBLIC  
SERVICE AND ADMINISTRATION

CIRCULAR TO ALL EMPLOYEES

RE: INTENDED STRIKE ACTION BY PUBLIC SERVICE TRADE UNIONS

The State as employer has taken cognisance of the fact that public service trade unions intend to embark upon strike action following the deadlock in the current salary negotiations.

Kindly be informed that:

- (a) The employer recognises the right of employees to fair labour practices as provided for in the Constitution of the Republic and relevant legislation.
- (b) It is the responsibility of both employer and employee to abide by the relevant provisions of the *Labour Relations Act, 1995* (LRA).
- (c) In view of the above and in terms of section 67(3) of the LRA, the employer intends to apply the principle of "no work, no pay" by deducting an amount equal to the number of days/hours of service not rendered during the period of the strike action.
- (d) Employees engaged in essential services may not participate in this strike during working hours. Participating in such action will result in the disciplinary procedures being applied.
- (e) No leave will be granted for purposes of the strike action.

HEAD OF DEPARTMENT

DATE:



# South African Democratic Teachers' Union (SADTU)

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Fax: 334-4836/4838

25 August 2004

The Honourable  
The Minister of Education  
Pretoria / Cape Town

Fax: (012) 323 5989 / 021 461 4788  
Pages: 2

Dear Madam

## Notice of Intention to Embark upon Strike Action

- 1 The South African Democratic Teachers' Union (SADTU) hereby gives you seven days notice in terms of section 64(1)(d) of the Labour Relations Act of its intention to embark upon strike action. The action will commence from 08h00 on 2 September in support of its demands relating to salaries and other matters of mutual interest canvassed at the recent conciliation convened by the Public Service Co-ordinating Bargaining Council (PSCBC).
- 2 This notice is addressed to you as employer of educators as defined in section 3(2) of the Employment of Educators Act. A copy of this notice will also be sent to Minister for Public Service and Administration and the Secretary of the PSCBC.
- 3 Kindly note that:
  - 3.1 On 2 September 2004 the union intends to hold protest marches in all of the provinces. They will begin some time after 08h00. Not all educators will therefore leave their work at 08h00.

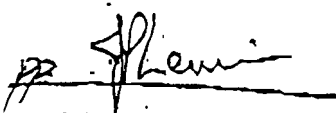
*Thinking Globally and Organising Locally*  
The Struggle Intensifies for Job Security and Free Quality  
Public Education for Empowerment  
*From Intention to Action*

Following the protest marches on 2 September 2004 educators will return to work. You will be advised of further actions that may constitute strike activity as defined in the Labour Relations Act.

At present SADTU members are being balloted about the possible strike action. If the ballot is not in favour of strike activity the union will accordingly withdraw its strike notice.

4 If you require any clarification kindly contact us.

Yours faithfully



Thulas Nxesi  
General Secretary

cc. The Honourable  
The Minister for Public Service and Administration  
Fax: 012 328 6565 / 021 465 5484

The Secretary  
PSCBC  
Pretoria  
Fax: 012 664 8950