



the dpsa

Department:
Public Service and Administration
REPUBLIC OF SOUTH AFRICA

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FILE 21/2/4


CIRCULAR NO: 05 OF 2023

TO: ALL HEADS OF DEPARTMENTS

REPLACEMENT OF CIRCULAR NO: 04 OF 2023: NEHAWU SECTION 64 (1) (d) OF THE LABOUR RELATIONS ACT NOTICE TO STRIKE SET ASIDE BY THE LABOUR COURT AND THE INTENDED STRIKE INTERDICTED.

1. This Circular serves to replace DPSA Circular No: 04 of 2023 in relation to the subject matter above.
2. On 24 February 2023, the DPSA received a notice to strike from NEHAWU, in terms of Section 64 (1) (d) of the Labour Relations Act 66 of 1995, indicating their intention to embark on strike on 6 March 2023. The notice included public entities which do not fall within the scope of the PSCBC, i.e. SASSA, SIU and SANBI.
3. NEHAWU later amended their notice by removing the public entities from the notice. According to the notice, the strike action was to commence at 06h00 in the morning and indefinitely until the demands of NEHAWU are met.
4. On receipt of the notice, the DPSA sought a legal opinion on the lawfulness of the intended strike. Based on the advice by Counsel that the strike notice was unlawful, the DPSA approached the Labour Court on an urgent basis to set aside the strike notice.
5. Following a hearing held on Saturday, 4 March 2023, the Labour Court ordered as follows:

- 5.1. The strike notice issued by NEHAWU is set aside; and
- 5.2. The intended strike action, picket or any other form of industrial action planned by NEHAWU to commence on 6 March 2023 is interdicted.
6. On 5 March 2023, NEHAWU applied for leave to appeal the Labour Court order delivered on 4 March 2023 interdicting their intended strike. According to NEHAWU, the purported appeal, suspends the Labour Court Order delivered on 4 March 2023.
7. The DPSA also applied for leave to execute the Labour Court order. On 6 March 2023, the Labour Court granted the DPSA leave to execute the Labour Court Order issued on 4 March 2023.
8. Therefore, the strike remains interdicted and any form of work stoppages and pickets by NEHAWU and its members will be tantamount to contempt of court and should be managed as such.
9. Under the circumstances, departments are advised as follows:
 - 9.1. Any form of work stoppages by officials will constitute misconduct and must be dealt with as such.
 - 9.2. All acts of service delivery disruptions including the vandalism and mayhem that was visited upon state institutions by strikers must be reported to law enforcement agencies with immediate effect.
 - 9.3. Departmental Legal Services must assist in active execution of the order in instances of contemptuous conduct by institutions or individuals defying the court order



MS YOLISWA MAKHASI

DIRECTOR GENERAL

DATE: 06/03/2023

