



the dpsa

Department:
Public Service and Administration
REPUBLIC OF SOUTH AFRICA

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TO: ALL HEADS OF DEPARTMENTS

COLLECTIVE BARGAINING AND LABOUR RELATIONS MATTERS

This circular replaces the circular dated 25 November 2016 with the same subject, in which the incorrect clause 3 has been removed.

Agency Fees

1. Agency fees are provided for in section 25 of the Labour Relations Act, 1995, as amended, (LRA) to ensure that all employees who receive the benefits of collective bargaining contribute towards its cost.
2. Public Service Coordinating Bargaining Council (PSCBC) Resolution 1 of 2005 further gives effect to this provision. Specifically, clause 5 of this Resolution states that:
"Each month the *employer* must deduct the agency fee from the basic salary of each of its *employees* who are not members of any one of the trade union parties to the Council."
3. Heads of Departments are therefore urged to ensure the correct implementation of agency fees, as provided for in the LRA and PSCBC Resolution 1 of 2015.

Organisational Rights

4. Heads of Departments are reminded that applications for the recognition of organisational rights must be dealt with in terms of the following minimum requirements, provided for in section 21 of the LRA:
 - a. The trade union must submit proof of being a *registered trade union*;
 - b. The *workplace* or area where organisational rights are sought, needs to be defined;
 - c. The union must submit proof of being *sufficiently represented* within the workplace; and
 - d. If proof is submitted, the trade union must also meet the *qualifying criteria* of any organisational rights agreement for the sector in which it seeks to exercise these rights, if applicable.

5. Failure to fulfil the abovementioned criteria would result in an unsuccessful application.

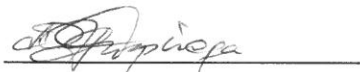
Management of Employees' Membership

6. There are allegations which have been brought to the attention of the DPSA, through the PSCBC that there are irregularities being committed in relation to capturing and cancellation employees' trade union membership on PERSAL.
7. Heads of Departments are urged to ensure that membership forms are captured and done so correctly, and to adhere to the provisions of section 13(5) of the LRA which deals with monthly remittance reports on membership and revocation thereof.
8. Trade union membership is a right which must be protected and the State as Employer has an obligation to fulfil the necessary statutory obligations to ensure that employees' rights are not infringed upon.

I rely on your cooperation to ensure the correct application and implementation of the abovementioned provision.

Should you require further clarity, your departments may liaise with Mr. Koos Shabangu via email at Koos@dpsa.gov.za or telephonically on 012 336 1274.

Yours sincerely



Mr. Mashwahle Diphofa
Director-General

Date: 07/02/2017