



the dpsa

Department:
Public Service and Administration
REPUBLIC OF SOUTH AFRICA

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**To: All Departmental and Provincial Directors- General
Provincial Heads of Departments.**

Dear Colleagues,

**AWARDING OF ORGANISATIONAL RIGHTS CONTAINED IN SECTION 13 OF
THE LABOUR RELATIONS ACT, 66 OF 1995 AS AMENDED**

In February 2019, I sent out the attached letter (**Tag A**), wherein I indicated that the PSCBC has brought to my attention the fact there are trade unions that are not admitted to the PSCBC but enjoying section 13 rights of the LRA with respect to deduction of membership subscriptions through persal.

Departments were also not deducting the agreed agency fee from members of the said trade unions, as required by PSCBC Resolution 1 of 2005.

There are two broad categories of the said unions, namely Unregistered Trade unions and registered Trade unions enjoying organisational rights not awarded through PSCBC Resolution 2 of 2017. These unions are:

Unregistered trade unions

- Education Health Church Welfare and Allied Workers (4 members);
- Progressive Trade Union of South Africa (1 member);
- South African Democratic Nurses Union (295 members);
- South African Agriculture Plantation and Allied Workers Union (33 members);
- Staatsdiens en Aanverwante Werkervakbond (80 members); and
- United Association of South Africa (1002 members).

**Registered trade unions enjoying organizational rights without recognition granted
through the PSCBC Resolution 2 of 2017:**

- Independent Municipal and Allied Trade Union (15 members);
- South African ABET Educators Union (1765 members);

- South African Liberated Public Sector Workers Union (2866 members); and
- South African Municipal Workers Union (13 members).

In terms of Section 19 of the LRA Registered trade unions that are parties to a council automatically have the rights contemplated in sections 12 and 13 of the LRA in respect of all workplaces within the registered scope of the council regardless of their representativeness in any particular workplace.

This therefore means that, registered trade unions not admitted to a bargaining council (the PSCBC and its sectors) do not automatically have rights to stop facilities provided for in section 13 of the LRA.

Following the conclusion of PSCBC Resolution 2 of 2017, to access the rights contained in section 13 of the LRA, a registered trade union not admitted to a bargaining council will have to follow the procedure laid out in PSCBC Resolution 2 of 2017.

Since the above mentioned unions were not awarded section 13 rights of the LRA with respect to deduction of membership subscriptions in accordance with the procedure prescribed by PSCBC Resolution 2 of 2017, departments are instructed to immediately revoke the rights awarded to the above mentioned unions.

National Treasury has also been requested to terminate the stop order facilities that have been unduly extended to the above mentioned unions.

Further, you are requested to deduct the agreed to agency fee in accordance with PSCBC resolution 1 of 2005 from all employees who are not members of unions admitted to the PSCBC but are legible to be members thereof.

Kind regards



PROFESSOR RICHARD LEVIN
DIRECTOR-GENERAL

DATE: 20/12/17



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Provincial Heads of Department.**

Dear Colleagues,

**AWARDING OF ORGANIZATIONAL RIGHTS CONTAINED IN SECTION 13 OF
THE LABOUR RELATIONS ACT, 66 OF 1995 AS AMENDED.**

The PSCBC has discovered and alerted me to the fact that there are trade unions that are not admitted to the PSCBC enjoying Section 13 rights of the LRA with respect to deduction of membership subscriptions through persal.

It has also been brought to my attention that departments are not deducting the agreed agency fee from members of trade unions, who are not parties admitted to the PSCBC as required by PSCBC Resolution 1 of 2005.

Those unions are:

- Education Health Church Welfare and Allied Workers
- Independent Municipal and Allied Trade Union
- National Tertiary Education Staff Union
- Progressive Trade Union of South Africa
- South African Agricultural Plantation and Allied Workers Union
- Society of State Advocates of South Africa
- South African ABET Educators Union
- South African Correctional Services Workers Union
- South African Council for Educators
- South African Democratic Nurses Union
- South African Liberated Public Sector Workers Union
- South African Municipal Workers Union
- Staatsdiens en Aanverwante Werkervakbond
- United Association of South Africa

You are therefore requested to deduct the agreed agency fee in accordance with PSCBC Resolution 1 of 2005 from all employees who are not members of unions admitted to the PSCBC but are eligible to be members thereof. Departments are further requested to favour the DPSA with the relevant agreements and or the mechanism(s) the departments applied to grant Section 13 rights of the LRA to the above-mentioned unions within a week of receipt of this letter.

Kind regards



PROFESSOR RICHARD LEVIN

DIRECTOR-GENERAL

DATE: 26/2/19