



NATIONAL ECONOMIC DEVELOPMENT AND LABOUR COUNCIL

**NEDLAC CERTIFICATE IN TERMS OF SECTION 77 OF THE LABOUR RELATIONS ACT
IN RESPECT OF THE SOUTH AFRICAN FEDERATION OF TRADE UNIONS SECTION 77
1(B) NOTICE ON THE DEFENCE AND PROMOTION OF SOCIO-ECONOMIC INTERESTS
OF WORKERS AND WORKING CLASS IN GENERAL**

1. INTRODUCTION

- 1.1. NEDLAC received a notice, dated 28 September 2020, in terms of Section 77 (1) (b) of the Labour Relations Act (LRA) 66 of 1995, from the South African Federation of Trade Unions (SAFTU), herein referred to as the Applicant, on the defence and promotion of socio-economic interests of workers and working class in general. Find attached as **ANNEXURE A**.
- 1.2. The notice outlined the Applicant's concerns on socio-economic challenges affecting workers and the working class in general.
- 1.3. The Applicant cited the following Respondents:
 - 1.3.1. National Treasury
 - 1.3.2. Department of Basic Education
 - 1.3.3. Department of Higher Education, Science and Innovation
 - 1.3.4. Department of Employment and Labour
 - 1.3.5. Department of Transport
 - 1.3.6. Department of Human Settlements, Water and Sanitation
 - 1.3.7. Department of Public Enterprises
 - 1.3.8. Department of Public Service and Administration
 - 1.3.9. Department of Women, Youth and Persons with Disabilities

- 1.3.10. Department of Public Works and Infrastructure
- 1.3.11. Department of Small Business Development
- 1.3.12. Department of Cooperative Governance and Traditional Affairs
- 1.3.13. Department of Mineral Resources and Energy
- 1.3.14. Department of Environment, Forestry and Fisheries
- 1.3.15. The Presidency
- 1.3.16. Department of Social Development
- 1.3.17. Department of Trade, Industry and Competition
- 1.3.18. Department of Agriculture, Land Reform and Rural Development
- 1.3.19. Department of Justice and Correctional Services
- 1.3.20. Passenger Rail Agency of South Africa
- 1.3.21. South African Airways
- 1.3.22. Banking Association of South Africa
- 1.3.23. South African Reserve Bank
- 1.3.24. Mineral Councils of South Africa
- 1.3.25. Johannesburg Stock Exchange
- 1.3.26. ESKOM
- 1.3.27. Business Unity South Africa
- 1.3.28. South African Revenue Service

2. PROCESS AT NEDLAC

- 2.1. In line with the Nedlac Section 77 Protocol, the Section 77 Standing Committee determined whether the notice was compliant with the administrative requirements of the Section 77 of the LRA.
- 2.2. The Standing Committee convened a meeting with the Applicant on 23 October 2020 in order to obtain clarity on the Applicants demands.
- 2.3. The Standing Committee noted that while some of the demands contained in the notice were of socio-economic nature, certain demands did not fall within the ambit of being deliberated in terms of Section 77 of the Labour Relations Act.
- 2.4. The Committee informed the Applicant that the following demands could not be addressed within the Section 77 process as they were not within its jurisdiction.

- 2.4.1. The National Economic Development and Labour Council must be democratised.
 - 2.4.2. Bargaining Councils must be democratised.
 - 2.4.3. Bargaining Council Agreements must be honoured and implemented.
 - 2.4.4. Worker's rights are human rights: The LRA amendments pertaining to balloting and picketing guidelines and advisory panel on arbitration must be repealed and a fair dispensation which does not favour the ruling class be introduced.
 - 2.4.5. Reform of the political Electoral System.
- 2.5. Therefore, the demands which could be addressed within the Section 77 process were those in the following sections:
- 2.5.1. Workers Right to a Living Wage
 - 2.5.2. Section 2 The State of the Economy.
 - 2.5.3. Section 3 Reversing the job-loss blood bath.
 - 2.5.4. Section 4 The Land Question, Housing and Personal Debt.
 - 2.5.5. Section 5 Environment and Climate Change and Mine Affected Communities.
 - 2.5.6. Section 6 A Meaningful Social Wage to be paid During Covid 19 and Beyond.
- 2.6. Furthermore, the Applicant at the meeting was requested to specify its cited Respondents.
- 2.7. Following the above-mentioned meeting, the Standing Committee convened the plenary meetings with the Applicant and Respondents on the following dates:
- 2.7.1. 12 November 2020
 - 2.7.2. 25 January 2021
 - 2.7.3. 08 February 2021
- 2.8. Summary of engagements:
- 2.8.1. Plenary meeting held on 12 November 2020:
 - 2.8.1.1. The Applicant outlined its demands as per its Section 77 notice. It further emphasised that its notice was based on issues that were of grave concern for the country, such as a deteriorating economy, which would have negative consequences, both in the short and long run.

2.8.1.2. The Respondents provided the following inputs:

- (a) Representatives of Government and Business constituencies indicated that they would coordinate the responses of all the cited Government departments, public entities, and business organisations, respectively, and revert with a comprehensive written response.
- (b) Furthermore, Government provided the following preliminary inputs:
 - (i) Processes to address some of the issues raised in the notice had already been initiated by Government. However, it was also important to acknowledge that some initiatives took time to take off.
 - (ii) The Economic Recovery and Reconstruction Plan would address the challenge of a deteriorating economy.
 - (iii) It would submit a written response to unpack various Government interventions in response to the Applicant's demands.

2.8.1.3. It was agreed at the meeting that the Respondents would submit written responses to the Secretariat.

2.8.2. Plenary meeting held on 25 January 2021:

2.8.2.1. The Respondent (Business) presented its responses to the Applicant's demands and highlighted the following:

- (a) South Africa had implemented a national minimum wage in consultation with all affected sectors and had provided appropriate dispute resolution mechanisms to that effect. Subsequently, the National Minimum Wage Commission had been established in this regard.

- (b) The Applicant was requested to engage relevant structures established by Government to address issues of a withering economy.
- (c) The State could not compel the reinstatement of jobs lost between March and August 2020 and neither could the State implement a moratorium on job losses.

2.8.2.2. The Applicant sought further details from Business at the next meeting as it was of the view that its responses were lean. Moreover, it indicated that it was still of the view that retrenchments should not continue and that the Business sector should do more to sustain jobs. Business offered to further discuss issues in bilateral engagements with SAFTU.

2.8.3. Plenary meeting held on 08 February 2021:

2.8.3.1. The Respondent (Government) presented its responses to the Applicant and highlighted the following:

- (a) Many of the issues raised by the Applicant were matters that could be addressed in the long-term period while others were possible to address in the short to medium-term period.
- (b) The financial constraints that were faced by Government, worsened by the Covid-19 pandemic, had an influence in the way in which some of the demands would be addressed.
- (c) Cabinet approved the Economic Reconstruction and Recovery Plan which identified several key initiatives and interventions that were aimed at boosting the recovery of the South African economy as well as to propel growth.

2.8.3.2. The Respondent (Business) presented its responses and highlighted the following:

- (a) Deposit funds were created to finance investments as well as economic and social infrastructure, which would facilitate job creation in return.
- (b) Banks were mandated to ensure that they invested the deposited funds responsibly.
- (c) The nationalisation of banks would not increase the supply of savings, that were necessary to facilitate new lending and to grow the economy.
- (d) If banks lent money in an irresponsible manner, they would become commercially unsustainable.

2.8.3.3. Subsequent to the responses received from the Respondents, the Applicant provided feedback indicating the inadequacy of the responses from Respondents and highlighted the following:

- (a) It had submitted its Section 77 notice with demands which were directed to Government and Business in order to engage with them on how to address socio-economic crisis facing workers and the working class in general.
- (b) However, the responses from Government and Business did not address its demands as outlined in the notice.

2.8.4. The Standing Committee convened a meeting on 08 April 2021 and considered the responses from the Respondents and feedback from the Applicant. The Committee agreed that the above-mentioned issues which were deliberated within the ambit of the Nedlac Section 77 process notice remained unresolved. It was therefore agreed that a certificate would be issued to SAFTU, however, the certificate would only apply to the demands that fell within the ambit of Section 77 of the LRA.

3. DECLARATION

Given the above-mentioned circumstances, the Standing Committee agreed that the matters raised by SAFTU could not be resolved. Therefore, on 08 April 2021 the Standing Committee deemed this Section 77 (1) (b) notice filed by SAFTU as having been considered in respect of Workers Right to a Living Wage and Sections 2-6 attached as **ANNEXURE A**. Any protest action arising from this notice, in line with the provisions of the LRA would be protected.

Signed at Rosebank on this 13 day of April 2021 .



LISA SEFTEL
EXECUTIVE DIRECTOR