

MEDIA RELEASE PSA victorious in Correctional Services overtime dispute

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The Department of Correctional Services' (DCS) ongoing refusal to comply with collective agreements and labour law and pay overtime since August 2009 to some 12 000 employees has run up a debt bill of some R3.8 billion.

The Public Servants Association (PSA) that represents thousands of DCS employees, referred a dispute on the interpretation and application of Public Service Coordinating Bargaining Council (PSCBC) Resolution 1/2007 in 2012. The Union now received the outcome of the arbitration in its favour.

The dispute concerns the non-payment of overtime to DCS employees because of GPSSBC Resolution 2/2009 that introduced a seven-day establishment, in particular the provisions in PSCBC Resolution 1/2007 that govern overtime. Before 2009, a five-day working week was in place and DCS employees who had to work on Saturdays and Sundays received overtime payment for all hours worked during the weekend. The DCS introduced different shift patterns, resulting in employees working more than the maximum of 45 ordinary hours without being compensated for overtime.

"This averaging out over a two-week period by the DCS was regarded unlawful in the absence of an averaging-out agreement. The PSA was compelled to refer a dispute to the Bargaining Council for adjudication. The Arbitrator on 26 July 2018 ruled in the PSA's favour that the DCS incorrectly interpreted Clause 9 of PSCBC Resolution 1/2007 by averaging working hours in the absence of a collective agreement that permits the averaging of working hours. The PSA's estimate is that it will cost the DCS a minimum of R3.8 billion to service this debt, which is escalating monthly. Cost was also awarded against the DCS," said PSA General Manager, Ivan Fredericks.

The Arbitrator sharply criticised the delaying tactics by the DCS over some six years, stating: "The Respondent used every opportunity that presented itself during the proceedings to frustrate the finalisation of this arbitration by raising objections and new challenges, seeking postponements the moment a new document, even irrelevant, was introduced. The conduct of the Respondent was plain to see. While a party is at liberty to litigate, it ought to be prudent in doing so, perhaps more so in the public sector where taxpayer money is at play. The system is not to be abused with frivolous litigation and incoherent or changing arguments in an apparent attempt to frustrate the proceedings."

"The PSA welcomes the ruling as it also sends a clear message to public-sector employers that irresponsible non-adherence to collective agreements and labour law and the waste of tax payers' money will not be tolerated," said Mr Fredericks.

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