

Dispute: Circulars 43 of 2020 and 4 of 2021

A virtual meeting with the MEC on 2 and 3 March 2021, in the above regard, refers. Members will recall that the Department issued both the above-mentioned Circulars without prior consultation resulting in labour demanding the withdrawal of the circulars, without success. After numerous meetings and referral of the dispute to the Council regarding the unilateral change to terms/conditions of employment whereafter a certificate of non-resolution was issued, the employer remained adamant that there was no need to consult. Subsequently, labour notified the employer of the intention to embark on a protected strike and picketing in terms of the *LRA* to commence on 8 March 2021.

During the meeting, the employer indicated that it is not mandatory to consult on the issues of shifts and rosters as it is a management prerogative, however, it is available to engage with the labour to clarify any issue of concern. The employer submitted that Public Service Regulations 51 and section 7 of the *Basic Conditions of Employment Act* allow the employer to regulate the working hours and the employer is not under any obligation to consult with labour. It was consequently stated that it is the prerogative of the HOD to make the changes that she had made in terms of the legislation, hence the circular would not be withdrawn. However, labour maintained that the employer was obliged to consult labour regarding the regulation of working hours.

The MEC indicated that she does not want to interfere with the Administration and would not use her power to withdraw of the mentioned circulars. The MEC undertook to consider the request of labour to withdraw and/or suspend the implementation, pending the consultation wherein the use of an independent mediator, i.e. the CCMA, to assist with the impasse. The MEC would therefore revert to labour on Friday, 5 March 2021 to report back in terms of the way forward and members will be advised accordingly.

GENERAL MANAGER