

Wage dispute and leave encashment dispute

Wage dispute

Members are aware that the employer failed to implement the final leg of the three-year wage agreement. Members were previously informed that the PSA declared a dispute at the High Court in Pretoria to enforce the dispute. Discussion between the employer and labour resulted in the employer offering a provisional interim payment of an increase amounting to 3.9% for 2021 (backdated to 1 April 2021), whilst we are awaiting the legal action at the High Court to unfold, and the ultimate ruling is obtained that will determine whether SARS would be obliged to pay the full increase due in terms of the third leg of the 2019-wage agreement. The *attached* agreement also includes the payment of a once-off R1 500 gratuity.

Please note that the employer requires that the payment of the backdated 3.9% increase would be conditional to the PSA entering into an “in-principle agreement” as per *attached*. In terms of this agreement, the PSA’s right to continue with the High Court litigation action will not be compromised and remains intact. Also note this does not affect the leave encashment dispute at the CCMA due to be heard on 29 October 2021. Should the ultimate ruling by the High Court turns out to be in the favour of the PSA, the *attached* draft “In-Principle agreement” reflects that the employer will make an application to National Treasury for the additional funding of the shortfall portion (2.3%). The employer explained that this inclusion to the agreement was vital and necessary to ensure that governance requirements are recorded, agreed to and met.

These latest developments are brought to your attention in preparation of a mandate request that will follow shortly, and whereby it will be appreciated if you would provide your urgent mandate as to whether you accept or reject the “In-Principle Agreement” that will inform the interim payments described in paragraphs 3.1.1 to 3.1.3 of the *attached* agreement. It will be crucial that each and every member participates in this mandating process on an urgent basis to equip the PSA to formulate its fully mandated position soonest. The PSA has also provided the in-principle agreement to its legal team who is representing members at the High Court and they are busy perusing the agreement and will provide a legal opinion on the agreement. It might be that some clauses will be amended by the legal team but these will only ensure that members’ rights are further protected.

Leave encashment dispute

Members are aware that the employer failed to pay the unused leave to qualifying employees. The employer also indicated that it does not intend to continue with this practice. The PSA declared a dispute at the CCMA. The arbitration was set to start on 29 October 2021. Members will be informed of

developments.

Hay grade dispute

Members were previously informed that confirmation was needed by the attorneys regarding the payment of the arbitration. Parties agreed that an amount of R200 000 can be released to start the arbitration process. A letter to confirm this arrangement was sent to the respective attorneys to start with the arbitration process. The PSA has decided to reallocate the case to a different attorney since the Union believes this will be in the best interest of PSA members. The pre-arbitration is now arranged for 9 to 10 November and the PSA is hopeful that the arbitration will start after these two days.

Members will be kept informed of developments.

The PSA wants to take this opportunity to wish all employees who are unwell owing to COVID-19 a safe and speedy recovery.

GENERAL MANAGER

IN-PRINCIPLE AGREEMENT

BETWEEN

SOUTH AFRICAN REVENUE SERVICE

(Herein after “SARS”)

and

PUBLIC SERVANTS ASSOCIATION OF SOUTH AFRICA

(Herein after “PSA”)

and

NATIONAL EDUCATION HEALTH AND ALLIED WORKERS UNION

(Herein after “NEHAWU”)

Jointly referred to as “The Unions”

1. PREAMBLE

- 1.1 SARS, PSA and NEHAWU are currently in dispute in respect of the implementation of the 3rd year of the Substantive Wage Agreement (2019/20 – 2021/22), i.e.:
- i) PSA dispute at the High Court (Case no: 34583/21); and
 - ii) NEHAWU dispute at the CCMA (Case no: HO621-21).
- 1.2 On 2 September 2021, SARS extended a dispute settlement offer to the Unions in settlement of the disputes above, which settlement offer was made possible by savings effected. Both NEHAWU and PSA rejected the settlement offer.
- 1.3 SARS is currently offering the terms of this Agreement as a good-will gesture to alleviate the financial distress facing its employees.
- 1.4 Notwithstanding, this Agreement does not derogate from the right of the Unions to pursue their respective disputes.

2. SCOPE

- 2.1 This Agreement is binding and applicable to SARS, the Unions and employees in the Bargaining Unit, who are employed by SARS within the Grades one (1) to six (6).

3. SETTLEMENT OFFER

- 3.1 The Parties agree on the following:
- 3.1.1 Payment of 3.9% salary increase on Guaranteed Total Packages across-the-board (2.5% original offer plus 1.4% from leave encashment allocation);
 - 3.1.2 Backdated implementation to 01 April 2021;
 - 3.1.3 Once-off payment of R1 500.00 gratuity for each employee;
 - 3.1.4 SARS will extend the 2020 annual leave cycle forfeiture date from 31 December 2021 to 30 June 2022.
- 3.2 SARS records that the payment contained in paragraph 3.1, has been made possible through savings effected.
- 3.3 The Parties agree to await the final determinations from the Courts with regards to the PSA High Court dispute (Case no. 34583/21), and the NEHAWU CCMA dispute (Case No. HO621-21).

- 3.4 The conclusion of this Agreement should not be construed as a party conceding the counterparty's stance in the High Court litigation or CCMA.
- 3.5 The parties do, however, record that should the Court rule in favour of SARS, it will not reclaim the amounts disbursed in terms of clause 3.1.1 and 3.1.3 of this Agreement, payment of such amounts having been effected through savings.
- 3.6 Should SARS be ordered to implement the 3rd year of the Substantive Wage Agreement (2019/20 – 2021/22), SARS will respect the Judgement and rely on the outcome thereof to apply for funding from National Treasury for the payment of any shortfall between the amount agreed to in 3.1.1 and 3.1.3 of this Agreement, and that ordered by the Court.

4. SEVERABILITY

- 4.1 Any provision in this Agreement, which is or may become illegal, invalid or unenforceable in any jurisdiction affected by this agreement shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be treated *pro non scripto* ("as not written") and severed from the balance of this Agreement, without invalidating the remaining provisions of this agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

5. GENERAL

- 5.1 This Agreement comes into effect on the date on which this Agreement is signed by the last party, provided the agreement is signed by all parties.
- 5.2 Parties undertake not to make any further claims or demands in respect to salary related issues and or other conditions of service in terms of the 2019/20 – 2021/22 Substantive Wage Agreement, unless parties agree thereto.
- 5.3 No amendment to this Agreement shall be in force or effect unless it is reduced to writing and signed by all parties. No undertaking, representation, term or condition relating to the subject matter of this Agreement not incorporated in this Agreement shall be binding on either of the Parties.

- 5.4 Parties commit to undertake all reasonable steps necessary to ensure the implementation of the elements contained in this agreement.
- 5.5 The persons signing this Agreement in a representative capacity warrant their authority to do so.

SIGNED ON BEHALF OF SARS

WITNESS: ON BEHALF OF SARS

Sobantu Ndlangalavu
Head: Employee & Labour Relations
Date: 2021-

Name
Designation:
Date: 2021-

SIGNED ON BEHALF OF NEHAWU

WITNESS: ON BEHALF OF NEHAWU

Molebatsi Tuka
Official: NEHAWU
Date: 2021-

NEHAWU
Designation:
Date: 2021-

SIGNED ON BEHALF OF PSA

WITNESS: ON BEHALF OF PSA

Stefan Viljoen
Official: PSA
Date: 2021-

PSA
Designation:
Date: 2021-