

**DEPARTMENT OF EMPLOYMENT AND LABOUR**

NO. R. 2433

2 September 2022

**CODE OF GOOD PRACTICE: PROTEST ACTION TO PROMOTE OR  
DEFEND SOCIO-ECONOMIC INTERESTS OF WORKERS**

Notice is hereby given that the Code of Good Practice: Protest Action to Promote or Defend Socio-Economic Interests of workers set out in the Schedule is issued by the Executive Director of National Economic Development and Labour Council (NEDLAC) in terms of section 203(1) of the Labour Relations Act, 1995 (Act No. 66 of 1995).



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**EXECUTIVE DIRECTOR: NEDLAC**

**DATE: 19/08/2022**

# CODE OF GOOD PRACTICE: PROTEST ACTION TO PROMOTE OR DEFEND THE SOCIO- ECONOMIC INTERESTS OF WORKERS (Section 77 of the Labour Relations Act 66 of 1995)

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## PART A: INTRODUCTION

### 1. Purpose.

- (1) This Code of Practice is intended to provide practical guidance to those who engage in discussions concerning the promotion or defence of the socio-economic interests of workers and the resolution of these matters through facilitation, conciliation, mediation or protest action as contemplated in section 77 of the LRA.
- (2) The purpose of this Code is to —
  - (a) strengthen and promote the consideration of matters concerning the socio-economic interests of workers;
  - (b) recognise the importance of dialogue and worker participation in the consideration of these matters;
  - (c) provide mechanisms to promote this dialogue and the consideration of these matters; and
  - (d) provide guidelines to NEDLAC, facilitators and other appropriate forums to which these matters are referred for the proper and effective consideration of these matters.

### 2. Interpretation.

- (1) Any person interpreting the LRA must take this Code into account.
- (2) Any interpretation of this Code must promote the spirit, purport and objects of the constitutional rights which are implicated by section 77. The Code may not be interpreted as imposing any unconstitutional limitation on the right to protest action as provided for in the LRA or applied in a way that undermines the right to protest action.

- (3) This Code is intentionally general as circumstances may differ and departure from its norms, subject to the requirements of the LRA, may be justified in appropriate circumstances.

### 3. Abbreviations and definitions.

Unless the context otherwise indicates, the following have meanings assigned to them in the table below —

- (1) “**days**” refers to calendar days;
- (2) “**Digest**” refers to the Digest of the decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO; Fifth (revised) edition 2006;
- (3) “**Executive Director**” means the Executive Director of NEDLAC appointed in terms of clause 17.2 of the NEDLAC Constitution or an alternate appointed by the Executive Director;
- (4) “**facilitator**” means a facilitator referred to in item 21;
- (5) “**ILO**” means the International Labour Organisation;
- (6) “**LRA**” means the Labour Relations Act 66 of 1995, and includes any regulation made in terms thereof;
- (7) “**Labour Relations Regulations**” means the Regulations published under section 208 of the LRA;<sup>1</sup>

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<sup>1</sup> GNR.1016 of 19 December 2014 (GG No. 38317), as amended by GNR.816 of 8 July 2016 (GG No. 40128), GNR.24 of 22 January 2019 (GG No. 42178), GNR.468 of 27 March 2019 (GG No. 42335) and GNR.1139 of 23 October 2020 (GG No. 43835).

- (8) “**NEDLAC**” means National Economic, Development and Labour Council established in terms of section 2 (1) of the National Economic, Development and Labour Council Act 35 of 1994;
- (9) “**referring party**” means the registered trade union or trade unions or federation or federations of trade unions which refer a matter of socio-economic interest to workers to NEDLAC; and
- (10) “**respondent party**” means the party or parties to whom the section 77 referral is directed and which are required to consider the matter giving rise to the intended protest action.

## **PART B: PROTECTED PROTEST ACTION**

### **4. Protest action.**

- (1) Protest action is the partial or complete concerted refusal to work, or the retardation or obstruction of work, for the purpose of promoting or defending the socio-economic interests of workers, but not for a purpose referred to in the definition of strike.<sup>2</sup> Protest action is often referred to as a ‘protest strike’ or a ‘socio-economic strike’.
- (2) The ILO’s Freedom of Association Committee has always recognised the right to strike by workers and their organisations as a legitimate and essential means of promoting and defending the economic and social interests of their members and workers in general.<sup>3</sup>

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<sup>2</sup> S 213 of the LRA.

<sup>3</sup> Paragraphs 520 to 544 of Chapter 10 (Right to strike) of the Digest are set out in Annexure B.

**5. Protected protest action.**

- (1) For protest action to be protected —
- (a) the protest action must be called by a registered trade union or federation of trade unions;
  - (b) the registered trade union or federation of trade unions calling the protest action must have notified NEDLAC of the reasons for and nature of the intended protest action;
  - (c) the issue giving rise to the intended protest action must concern a matter of socio-economic interest to workers;
  - (d) the matter giving rise to the intended protest action must have been considered by NEDLAC or any other appropriate forum in which the parties concerned are able to participate in order to resolve the matter; and
  - (e) at least 14 calendar days before the commencement of the protest action, the registered trade union or federation of trade unions must have served a notice on NEDLAC of its intention to proceed with the protest action.
- (2) All employees, regardless of whether they are members of the referring party, may participate in protected protest action after there has been compliance with the requirements of section 77 of the LRA, except employees employed in maintenance or essential services.<sup>4</sup>

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<sup>4</sup> For the definitions of “maintenance service” and “essential service” see sections 75 (1) and 213 of the LRA respectively.

**6. The nature of the protection.**

- (1) Protest action that complies with section 77 of the LRA affords workers participating in the action, the protections conferred by section 67 of the LRA.

**PART C: PROCEDURAL REQUIREMENTS****7. Delivery of notices and documents.**

- (1) A notice or other document must be delivered by hand, registered post, telefax or email.
- (2) Notices must be served upon NEDLAC. The contact details are reflected in the LRA Forms 4.4 and 4.5.

**8. Section 77 (1)(b) notice.**

A registered trade union or federation of trade unions must submit to NEDLAC a notice concerning possible protest action in accordance with the LRA 4.4 Form.<sup>5</sup>

**9. Section 77 (1)(d) notice.**

The registered trade union or federation of trade unions must serve a notice on NEDLAC of its intention to proceed with the protest action in accordance with the LRA 4.5 Form.<sup>6</sup>

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<sup>5</sup> Regulation 9 of the Labour Relations Regulations.

<sup>6</sup> *Ibid.*

**10. The sequence of the section 77 referral.**

- (1) The section 77 referral must be processed in the following sequence:
  - (a) service of the section 77 (1)(b) notice (Form LRA 4.4);
  - (b) consideration as contemplated in section 77 (1)(c) by NEDLAC or an independent facilitator appointed by the standing committee or another appropriate forum determined by the standing committee in terms of item 24; and
  - (c) service of the section 77 (1)(d) notice (Form LRA 4.5).<sup>7</sup>
- (2) Protest action cannot be launched until the processes envisaged in subitem (1) have been concluded.<sup>8</sup>

**11. Time limits.**

- (1) Section 77 does not expressly set any time limits. They cannot be 'read into' that section because, unlike disputes between unions and individual employers, the kind of issue reserved for protest action is often not one that can be resolved as expeditiously as a labour dispute.<sup>9</sup>
- (2) Protest action should nevertheless not be unduly delayed and should be conducted within a reasonable time having regard to the nature of the matter, the scale of the intended protest action, and the time it would reasonably be expected to take to ensure legal compliance and the orderly conduct of the protest action.

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<sup>7</sup> *Business SA v COSATU* [1997] 5 BLLR 511 (LAC).

<sup>8</sup> *Ibid.*

<sup>9</sup> *Congress of SA Trade Unions v Business Unity SA* [2021] 4 BLLR 343 (LAC).

**12. Variance of time periods in this Code.**

- (1) Subject to subitem (2), the parties involved in a section 77 referral may agree to vary the time periods specified in this Code.
- (2) A variation of time periods involving additional expenditure by NEDLAC will only be valid if the Executive Director has agreed to it.
- (3) The Standing Committee may condone the non-adherence to time periods on good cause shown.

**PART D: SUBSTANTIVE REQUIREMENTS****13. The nature of socio-economic interests of workers.**

- (1) The matter giving rise to the intended protest action must concern a matter that promotes or defends the socio-economic interests of workers.
- (2) The expression 'socio-economic interests' has a wide meaning. There is no definitive test for whether an issue concerns a matter of socio-economic interest. Whether an issue concerns a matter of socio-economic interest will depend the particular circumstances of each case.
- (3) Protest action is for the purposes of promoting or defending the socio-economic interests of workers, but not for the purpose referred to in the definition of strike. Therefore, matters of socio-economic interests exclude —

- (a) matters of mutual interest between employer and employee;<sup>10</sup>  
and
  - (b) matters of a purely political nature.<sup>11</sup>
- (4) Matters of socio-economic interest include —
- (a) issues that are major social and economic policy trends which have a direct impact on the trade union's members and on workers in general, in particular as regards employment, social protection and standards of living;<sup>12</sup> and
  - (b) matters which fall within the ambit of the social status and economic position of workers in general such as the imbalances in the education system as a result of past government policy.<sup>13</sup>
- (5) When determining whether a matter is a matter of socio-economic interest an interpretation should be preferred which —
- (a) does not limit fundamental rights; and

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<sup>10</sup> Protest action may not be for the purpose referred to in the definition of strike. The purpose of a strike is to remedy a grievance or resolve a dispute in respect of any matter of mutual interest between employer and employee. Matters of mutual interest between employer and employee include: (a) "all interest disputes between employer and employee (broadly, disputes about the creation of new rights) and rights disputes between employer and employee (broadly, disputes about the interpretation and application of existing rights) ..."; and (b) matters that are "the subject of any term of any collective agreement, referral for conciliation or the subject of any strike or lock-out [which is] work-related, or ... concern the employment relationship." (*Vanachem Vanadium Products (Pty) Ltd v National Union of Metalworkers of South Africa and others* [2014] 9 BLLR 923 (LC) at paras 16-17.)

<sup>11</sup> See Digest, para 528, Annexure B.

<sup>12</sup> Digest, para 527, Annexure B.

<sup>13</sup> *Government of the Western Cape Province v COSATU & Another* [1998] 12 BLLR 1286 (LC).

- (b) gives effect to the LRA's primary objects, which includes
  - (i) giving effect to the obligations incurred by South Africa as a member state of the ILO;<sup>14</sup> (ii) is in compliance with the Constitution; and, (iii) is in compliance with the South Africa's public international law obligations.<sup>15</sup>

#### 14. Consideration of the issues giving rise to the referral.

- (1) Section 77 (1)(c) requires consideration of the issues with a view to reaching consensus.
- (2) The process of consideration —
  - (a) is not superficial or cosmetic engagement;
  - (b) requires the referring party and the respondent party to engage with a view to reaching consensus on the matters giving rise to the referral;
  - (c) does not require agreement or deadlock on the objective facts; and
  - (d) does not require the referring party to be tied into a process which, though ongoing, has no potential of being resolved.<sup>16</sup>

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<sup>14</sup> Section 1 (b) of the LRA.

<sup>15</sup> Section 3 of the LRA.

<sup>16</sup> *Government of the Western Cape Province v COSATU & Another* [1998] 12 BLLR 1286 (LC) at paras 26 and 28.

- (3) In determining whether a matter has been considered, all relevant factors must be taken into account, including but not limited to the following —
- (a) the nature of the matters giving rise to the intended protest action;
  - (b) the prospect of the matter being resolved; and
  - (c) the nature and extent to which the parties have engaged before the section 77 (1)(b) referral.
- (4) A matter is regarded as having been considered if —
- (a) the referring and respondent parties have resolved the matter;
  - (b) the referring and respondent parties agree that the matter has been considered and the agreement is recorded in writing;
  - (c) the Standing Committee, facilitator or chairperson of the forum to which the matter was referred determines that the matter has been considered after taking into account the factors listed in subitem (3); or
  - (d)(i) the referring party has attended the meetings convened for purposes of considering the matter within six weeks of the referral; and
  - (ii) the parties have not agreed to attend further meetings to consider the matter.

#### **PART E: STANDING COMMITTEE**

##### **15. Establishment of the NEDLAC Standing Committee.**

NEDLAC will establish a Standing Committee to manage section 77 referrals.

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**16. Composition of the Standing Committee.**

- (1) The Standing Committee is composed of the Executive Director and one person appointed by each of the social partners.
- (2) Each social partner must appoint a standing alternative member eligible to attend a Standing Committee meeting when the principal member is not able to attend the meeting.
- (3) The Executive Director<sup>17</sup> must chair the meetings of the Standing Committee. In the Executive Director's absence, a member of the Standing Committee elected by the members present must chair the meeting.

**17. Functions of the Standing Committee.**

The functions of the Standing Committee are —

- (1) to oversee and manage the section 77 process;
- (2) to determine whether NEDLAC has jurisdiction, include whether the matter giving rise to the referral is a matter of socio-economic interest to workers;
- (3) to determine whether a facilitator should be appointed to facilitate consideration of the matter;
- (4) to determine whether the referral should be submitted to another appropriate forum within or outside of NEDLAC for consideration;

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<sup>17</sup> The definition of Executive Director includes an alternate appointed by the Executive Director. See item 3(3).

- (5) if the matter is not referred to a facilitator or another appropriate forum to facilitate consideration of the matter;
- (6) to determine whether the matter has been considered as contemplated in item 14 (4)(c); and
- (7) to produce reports as contemplated in this Code.

#### **18. Quorum of the Standing Committee.**

- (1) The Standing Committee is quorate —
  - (a) if any three of the four social partners are represented at the meeting; or
  - (b) those present at a subsequent meeting convened after the Standing Committee meeting which was not quorate.
- (2) Unless the representatives of the social parties and the referring and responding parties agree otherwise, the adjourned Standing Committee must be scheduled within three days of the non-quorate Standing Committee meeting.

#### **19. Obligations of the Standing Committee Members.**

The members of the Steering Committee must —

- (1) strive to promote trust, mutual understanding and the constructive engagement of the parties; and
- (2) act to promote social dialogue and the resolution of matters referred in terms of section 77.

**20. Decisions of the Standing Committee.**

- (1) Taking into consideration the provisions of item 19, the Standing Committee must strive to make decisions by consensus.
- (2) If consensus cannot be reached, decisions must be made by a majority vote of the representatives of the social partners. If a majority is not achieved, the Executive Director will have a casting vote.

**21. Facilitators.**

- (1) NEDLAC will appoint a panel of facilitators who have knowledge, experience and expertise in conciliation, mediation or facilitation to facilitate the consideration of matters giving rise to a section 77 (1)(b) notice.
- (2) The panel must represent a broad cross-section of the population of the Republic.

**PART F: PRE-CONSIDERATION PROCESSES****22. Administrative compliance of section 77 (1)(b) Notice.**

- (1) In this item “compliant” means a section 77 (1)(b) notice that is substantively in compliance with the requirements of section 77 (1)(b) and regulation 9 of the Labour Relations Regulations.
- (2) Within three days of receipt of a section 77 (1)(b) notice —
  - (a) the Executive Director must determine whether the notice is compliant; and
  - (b) if the Executive Director is of the view that the notice is not compliant, the Executive Director must inform the referring party in writing that the notice is not compliant and the reasons for this.

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**23. Referral of section 77 (1)(b) notice to the Standing Committee.**

- (1) The Executive Director must refer a compliant section 77 (1)(b) to the Standing Committee within three days of the receipt of the notice.
- (2) Within five days of the referral of the notice to the Standing Committee, the committee must meet to consider whether the issue is a matter of socio-economic interest, and accordingly whether NEDLAC has jurisdiction to consider the referral.
- (3) If the Standing Committee determines that the issue giving rise to the referral is not a socio-economic matter, the Executive Director must inform the referring party within three working days of the Standing Committee's decision and the reasons for its decision.

**24. The body to consider the referral.**

- (1) The Standing Committee must determine whether a compliant referral will be considered by —
  - (a) a facilitator;
  - (b) the Standing Committee; or
  - (c) another appropriate forum in or outside of NEDLAC.
- (2) An 'appropriate forum' is a forum that is in a position to influence the outcome of the matter under consideration. Examples of such forums include task groups set up in certain industries.
- (3) If the Standing Committee appoints a facilitator or another forum in or outside NEDLAC to consider the matter, the Standing Committee must —
  - (a) record the brief, timeframes and terms and conditions of the facilitator or the other forum; and

- (b) require regular briefings from the facilitator or the other forum.
- (4) The time frames for the consideration of a matter giving rise to the intended protest action by the Standing Committee or another appropriate forum are those set out in items 28(8) and 28(9) below.
- (5) The Standing Committee may terminate the referral of the matter to a facilitator or another forum.

## **PART G: FACILITATING CONSIDERATIONS**

### **25. Appointment of a facilitator.**

- (1) Subject to subitem (2), the Executive Director must appoint the facilitator from the panel of facilitators referred to in item 21(1).
- (2) Before appointing the facilitator, the Executive Director must —
  - (a) propose to the referring and responding three possible facilitators from the panel of facilitators referred to in item 21(1);
  - (b) appoint the facilitator agreed upon by the parties;
  - (c) appoint one of the three facilitators if the parties are unable to agree upon the name of a facilitator.

### **26. The nature of facilitation.**

Facilitation includes —

- (1) mediation and conciliation;
- (2) making without prejudice recommendations to the parties; and

- (3) with the agreement of the parties, making written with prejudice recommendations to the parties.

**27. The first meeting to consider the referral.**

- (1) At the first meeting the following issues must be addressed —
  - (a) the procedure to be followed during the facilitation;
  - (b) the exact issues pertaining to and underlying the referral;
  - (c) the broad areas to explore in order to reach an agreement;
  - (d) the information required to consider the matter;
  - (e) whether the parties' delegations are, and will be, composed of persons who can effectively engage in the discussions with a view to reaching consensus; and
  - (f) the date and time of additional facilitation meetings.
- (2) A matter referred to in subitem (1) may be dealt with in any subsequent facilitation meetings that are held.

**28. Facilitation rules.**

- (1) The facilitator will chair the meetings between the parties.
- (2) A facilitation is conducted on a with prejudice basis unless the parties agree that the facilitation or a part of the facilitation will be conducted on a without prejudice basis.

- (3) Despite item 27(1)(a) and subitem (2) the facilitator may, after consultation with the parties —
- (a) decide on any issue of procedure that arises in the course of the meetings between the parties;
  - (b) direct that the parties to engage in consultations without the facilitator being present;
  - (c) direct that a party engages in a without prejudice meeting with the facilitator; and
  - (d) arrange further facilitation meetings.
- (4) By agreement between the parties, the facilitator may perform any other function.
- (5) The facilitator may not disclose information or a document that a party privately disclosed in confidence to the facilitator before, during or after the facilitation, to any other party or person without the consent of the party disclosing it, unless the facilitator is required by law to make the disclosure.
- (6) The part of the facilitation conducted on a without prejudice basis may not be disclosed in any court proceedings.
- (7) No person may require the facilitator to attend legal proceedings to give evidence about or to produce any records or notes relating to any part of the facilitation that was conducted on a without prejudice basis.
- (8) Unless the parties agree otherwise, a facilitator must conduct at least four facilitation meetings within six weeks of the referral being delivered, unless —
- (a) the dispute is settled in a lesser number of meetings; or

- (b) the facilitator is of the view that there is no prospect of the matter being resolved.
- (9) After consultation with the parties and the Executive Director, the facilitator may arrange additional meetings to consider the matter if —
  - (a) an extension of time is necessary to ensure a meaningful conciliation process;
  - (b) the refusal to agree to the extension by a party is unreasonable; and
  - (c) there are reasonable prospects of reaching an agreement.
- (10) A facilitation meeting must be reconvened within five working days, or within such further period which the referring and responding parties agree to if either representatives of the referring or responding parties do not attend a facilitation meeting.
- (11) If the one or more of the responding parties fail to attend the subsequent meeting referred to in subitem (10), the facilitator must facilitate consideration of the matter unless it is agreed otherwise.

**29. Consideration by the Standing Committee or another appropriate forum.**

Items 27 and 28 apply with the changes required by the context when the matter is facilitated by the Standing Committee or another appropriate forum to which it has been referred.

**30. Obligations of the referring and respondent parties.**

- (1) To achieve the orderly and constructive consideration of matters giving rise to the intended protest action, the referring and respondent parties and their representatives must —
  - (a) strive to promote trust, mutual understanding and constructive engagement with each other; and
  - (b) act in good faith.
- (2) Engagements should be conducted in a rational, courteous and constructive manner. Disruptive or abusive behaviour must be avoided.
- (3) Parties should attend agreed meetings unless there is a good reason for not attending, in which case the party that cannot attend should give reasonable notice of its non-attendance to avoid wasteful expenditure and inconvenience to the other parties.
- (4) Parties should not act in a manner that has the effect of unreasonably delaying the process of consideration by, for example, failing to agree upon dates and times for meetings, failing to attend agreed meetings or arriving late without good cause, changing representatives, failing to secure a mandate or refusing to engage for the purposes of reaching agreement.
- (5) Parties should be open to modifying their standpoints and responses during the course of the engagements.
- (6) Parties should endeavour, as far as possible, to ensure that their representatives remain the same throughout the course of engagements and that they are properly mandated to modify positions and responses.
- (7) The parties' representatives should endeavour to present the responses provided by the other party as accurately as possible.

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- (8) The parties should remain open to continue engagements even after the section 77 (1)(d) notice has been served.
- (9) Representatives of the parties should be requested to sign the declaration in Annexure A to this Code.

### **31. Report to the Standing Committee.**

- (1) Within five days of the last meeting at which the referral was considered a written report must be sent to the Standing Committee by —
  - (a) the facilitator, in the case where a facilitator was appointed;
  - (b) the Executive Director, in the case where the Standing Committee conducted the facilitation; and
  - (c) the Chairperson of the forum, in the case where the referral was submitted to another forum.
- (2) The written report must record —
  - (a) the matter giving rise to the referral and intended protest action;
  - (b) the manner in which the matter was considered; and
  - (c) the outcome of the consideration.
- (3) By agreement of the parties, the report may also provide advice to the parties about possible ways to resolve the matters giving rise to the referral.
- (4) The Executive Director must produce the written report within five days of the date upon which it was due if the appointed facilitator or chairperson of the forum to which it was referred fail to produce the report timeously.

**PART H: DISPUTE RESOLUTION****32. Labour Court.**

The Labour Court has jurisdiction to —

- (1) review and set aside NEDLAC's decision that the matter is not a matter of socio-economic interest to workers;
- (2) interdict protest action if there has been non-compliance with the provisions of section 77 (1)(b), (c) or (d); and
- (3) limit the protected nature or duration of the protest action by weighing the importance to the workers of the matter giving rise to the action against the nature and duration of the proposed action.

**ANNEXURE A: GOOD FAITH DECLARATION**

In the negotiations between:

*(Name of referring party)*

and

*(Name of responding party)*

on

*(Short description of the matters giving rise to intended protest action)*

I,

*(name), (capacity) of the (name of entity)*

declare that—

- (1) I will participate in the engagements in good faith and with the sincere intention of resolving the matter.
- (2) I will treat the participants in the consideration of the matter giving rise to the intended protest action with respect and engage in a rational, constructive and courteous manner.
- (3) I will not deliberately delay matters by, for example, failing to respond quickly to communications, to agree dates and times for meetings, to attend meetings, and to attend meetings without a mandate.
- (4) I will, accordingly, ensure to the best of my ability that I and the other members of our team —

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- (a) will attend agreed meetings and, if for good reason we are unable to do so, I will ensure that reasonable notice of our non-attendance is given to avoid wasteful expenditure and inconvenience; and
  - (b) are properly mandated when we attend negotiation and conciliations meetings.
- (5) I will faithfully communicate any proposals or counterproposals arising from engagements.
- (6) I will not conduct myself in any way that may constitute conduct that undermines the consideration of the matter giving rise to the intended protest action.

Signed on (date) at (place)

(Name and contact details)

**ANNEXURE B: EXTRACT FROM ILO'S DIGEST**

Paragraphs 520 to 544 of Chapter 10 (Right to strike) of the Digest state the following:

**“Importance of the right to strike and its legitimate exercise**

520. While the Committee has always regarded the right to strike as constituting a fundamental right of workers and of their organizations, it has regarded it as such only in so far as it is utilized as a means of defending their economic interests.
521. The Committee has always recognized the right to strike by workers and their organizations as a legitimate means of defending their economic and social interests.
522. The right to strike is one of the essential means through which workers and their organizations may promote and defend their economic and social interests.
523. The right to strike is an intrinsic corollary to the right to organize protected by Convention No. 87.
524. It does not appear that making the right to call a strike the sole preserve of trade union organizations is incompatible with the standards of Convention No. 87. Workers, and especially their leaders in undertakings, should however be protected against any discrimination which might be exercised because of a strike and they should be able to form trade unions without being exposed to anti-union discrimination.
525. The prohibition on the calling of strikes by federations and confederations is not compatible with Convention No. 87.

**Objective of the strike (strikes on economic and social issues, political strikes, solidarity strikes, etc.)**

526. The occupational and economic interests which workers defend through the exercise of the right to strike do not only concern better working conditions or

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collective claims of an occupational nature, but also the seeking of solutions to economic and social policy questions and problems facing the undertaking which are of direct concern to the workers.

527. Organizations responsible for defending workers' socio-economic and occupational interests should be able to use strike action to support their position in the search for solutions to problems posed by major social and economic policy trends which have a direct impact on their members and on workers in general, in particular as regards employment, social protection and standards of living.
528. Strikes of a purely political nature and strikes decided systematically long before negotiations take place do not fall within the scope of the principles of freedom of association.
529. While purely political strikes do not fall within the scope of the principles of freedom of association, trade unions should be able to have recourse to protest strikes, in particular where aimed at criticizing a government's economic and social policies.
530. In one case where a general strike against an ordinance concerning conciliation and arbitration was certainly one against the government's policy, the Committee considered that it seemed doubtful whether allegations relating to it could be dismissed at the outset on the ground that it was not in furtherance of a trade dispute, since the trade unions were in dispute with the government in its capacity as an important employer following the initiation of a measure dealing with industrial relations which, in the view of the trade unions, restricted the exercise of trade union rights.
531. The right to strike should not be limited solely to industrial disputes that are likely to be resolved through the signing of a collective agreement; workers and their organizations should be able to express in a broader context, if necessary, their dissatisfaction as regards economic and social matters affecting their members' interests.

532. The solution to a legal conflict as a result of a difference in interpretation of a legal text should be left to the competent courts. The prohibition of strikes in such a situation does not constitute a breach of freedom of association.
533. If strikes are prohibited while a collective agreement is in force, this restriction must be compensated for by the right to have recourse to impartial and rapid mechanisms, within which individual or collective complaints about the interpretation or application of collective agreements can be examined; this type of mechanism not only allows the inevitable difficulties which may occur regarding the interpretation or application of collective agreements to be resolved while the agreements are in force, but also has the advantage of preparing the ground for future rounds of negotiations, given that it allows problems which have arisen during the period of validity of the collective agreement in question to be identified.
534. A general prohibition of sympathy strikes could lead to abuse and workers should be able to take such action provided the initial strike they are supporting is itself lawful.
535. The fact that a strike is called for recognition of a union is a legitimate interest which may be defended by workers and their organizations.
536. A ban on strikes related to recognition disputes (for collective bargaining) is not in conformity with the principles of freedom of association.
537. Protest strikes in a situation where workers have for many months not been paid their salaries by the Government are legitimate trade union activities.
538. A ban on strike action not linked to a collective dispute to which the employee or union is a party is contrary to the principles of freedom of association.
539. Provisions which prohibit strikes if they are concerned with the issue of whether a collective employment contract will bind more than one employer are contrary to the principles of freedom of association on the right to strike; workers and their

organizations should be able to call for industrial action in support of multi-employer contracts.

540. Workers and their organizations should be able to call for industrial action (strikes) in support of multi-employer contracts (collective agreements).
541. The Committee has stated on many occasions that strikes at the national level are legitimate in so far as they have economic and social objectives and not purely political ones; the prohibition of strikes could only be acceptable in the case of public servants exercising authority in the name of the State or of workers in essential services in the strict sense of the term, i.e. services whose interruption could endanger the life, personal safety or health of the whole or part of the population.
542. A declaration of the illegality of a national strike protesting against the social and labour consequences of the government's economic policy and the banning of the strike constitute a serious violation of freedom of association.
543. As regards a general strike, the Committee has considered that strike action is one of the means of action which should be available to workers' organizations. A 24-hour general strike seeking an increase in the minimum wage, respect of collective agreements in force and a change in economic policy (to decrease prices and unemployment) is legitimate and within the normal field of activity of trade union organizations.
544. A general protest strike demanding that an end be brought to the hundreds of murders of trade union leaders and unionists during the past few years is a legitimate trade union activity and its prohibition therefore constitutes a serious violation of freedom of association."