

## SECTION 77 NOTICES

### TERMS OF REFERENCE:

Section 77 of the Labour Relations Act gives workers the right to take part in protest action to promote or defend their socio-economic interest and be protected against dismissal and other disciplinary action. It gives Nedlac, as a policy-making body made up of Government, Business, Labour and the Community, the task of bringing the parties together to attempt to resolve the reasons for the protest action.

### OUTPUTS

Nedlac received six Section 77 notices in the period under review. Of these, one notice was deemed by the standing committee to be not compliant with the section 77 criteria. Another was dealt with on a political level. Of the four remaining notices, two resulted in protest action, one was resolved, and another was still in process at the end of the year under review.

Four meetings were held in order to discuss a protocol governing the handling of Section 77 notices.

#### Sactwu's notice against retailers (May 2001)

Sactwu initiated a socio-economic protest action against the retail sector for the following reasons:

- (a) The continuing job losses in the clothing, textile and footwear manufacturing industry caused, inter alia, by the sourcing decisions of retailers.
- (b) High levels of imports by retailers.
- (c) Pricing policies of retailers towards manufacturers.
- (d) The practices of retailers in shifting their sources to low wages areas, and exploiting workers in the informal sector.

Number of meetings held: 2 meetings were held

**Outcome:** The S77 Standing Committee (SC) considered the notice and decided that there had been a deadlock. The union was then granted permission to proceed with its intended protest action, upon giving a 14 days' notice in terms of section 77(1)(d) of the LRA, 1995. The union forwarded the (1)(d) notice and held its protests.

Nedlac fulfilled its mandate with regards to Section 77 of the LRA.

### Cosatu's notice on privatisation (June 2001)

Cosatu initiated a socioeconomic protest against Government for the following reasons, among others:

- (a) The state's privatisation programme continued to detrimentally affect the socio-economic interests of the poor in that:
- It would lead to decreased and inferior quality services for the poor, since they could not afford to pay for the services provided by or through private interests.
  - It would lead to higher prices for the provision of basic services, which would adversely affect the poor.
  - It would limit the extension of basic social and municipal services to the poor,
  - Generally, it would limit cross-subsidisation to benefit the poor and poor regions.
  - It would lead to significant job losses and would not provide for job creation.
  - It would foster the casualisation of labour, with more and more workers being hired on limited fixed-term contracts of employment.
  - It removed workers from the bargaining units established over many years in the public sector, generally leading to a reduction in incomes, benefits and job security.
  - Regulatory agencies had proven unable to establish specific and effective obligations to serve the poor by extending services at affordable prices. They have few or no sanctions to impose on companies that fail to comply with obligations, ambiguous targets for the extension of affordable services if any exist at all, and at best ineffective mechanisms to monitor compliance.

**Number of meetings held:** 2 meetings were held

**Outcome:** The S77 SC considered the notice and was satisfied that the parties had reached a deadlock. Cosatu was then given permission to proceed with its protest in terms of section 77(1)(d) of the LRA, 1995. The union forwarded the (1)(d) notice and held its protest actions.

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### Fedusa's notice on the outcome of the Labour Law Amendments' negotiations (July 2001)

Fedusa initiated a socioeconomic protest against Government. The section 77 notice was first tabled by Fedusa in July 2001, pertaining to section 197 of the Labour Relations Act, 1995. The notice argued that the proposed amendments to section 197(4) and (5) of the LRA, which deal with the transfer of a contract of employment, would have a negative socio-economic impact on workers. When the notice was originally tabled, the SC felt that, since the negotiations on the Labour Law Amendments were still under way, it would be premature to consider the notice. In December 2001, Fedusa subsequently indicated that its National Executive Committee believed that the amendments to section 197 as adopted in Parliament, did not address the concerns detailed in its July notice.

**Number of meetings held:** no meeting was held.

**Outcome:** The notice was not considered by the SC, but was addressed at political level.

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### Satawu's notice regarding the bus industry (October 2001)

Satawu tabled a notice of a socio-economic protest action against the Minister of Transport and the South African Bus Owner's Association (Sabo) regarding an agreement that had been signed between the union, the Minister of Transport and Sabo on the restructuring of the bus industry. The union argued that the Agreement had had negative results which included job losses.

Number of meetings held: no meeting was held.

Outcome: The SC did not consider the notice. It decided, among other things, that the intended protest action did not comply with the purpose of a protest action as defined in section 213 of the LRA, 1995, in that the union's purpose was not to pursue a socio-economic interest. The union, therefore, did not proceed with its intended protest.

### Fawu's notice on the impact of the SA-EU Trade Agreement on the local food industry (October 2001)

Fawu initiated a socio-economic protest action against the dti and major retailers (Pick 'n Pay, Shoprite Checkers & Woolworths) regarding the negative impact of the SA-EU Trade Agreement on the local food industry.

Number of meetings held: One meeting was held.

Outcome: The SC considered the notice and an agreement was reached that a bilateral process should take place between Fawu and the dti. Retailers could attend the bilateral meetings upon invitation. No report-back was received by the Standing Committee in the year under review.

### Cosatu's (Western Cape) notice on Cape Metrorail (February 2001)

Cosatu Western Cape tabled, on 18 February 2002, a notice of possible protest action regarding the administration of railway services by the Cape Metrorail. The notice specified a number of demands, including that Cape Metrorail should immediately restore all the trains whose services it had discontinued as from November 2001. The notice also raised issues regarding safety on trains and at stations.

Number of meetings held: One meeting was held in March 2002.

Outcome: The SC considered the notice and an agreement was reached to have a bilateral process between Cosatu and the respondent parties. The Nedlac secretariat was asked to facilitate the process. This was ongoing at the end of the year under review.

## Section 77 Standing Committee

### Government

Thembinkosi Mkhali

### Labour

Bengeza Mthombeni

### Community

Ali Maziya

### Business

Elize Strydom