



GOVERNMENT OF THE REPUBLIC OF NAMIBIA

OFFICE OF THE PRIME MINISTER

PRESS STATEMENT

OUTCOME OF THE CONCILIATION HELD BETWEEN THE NAMIBIA NATIONAL TEACHERS UNION (NANTU) AND THE GOVERNMENT OF THE REPUBLIC OF NAMIBIA, REPRESENTED BY THE PRIME MINISTER *ex officio*

1. As the Nation might be aware, the Government of the Republic of Namibia ('the Government') has been engaged in wage negotiations with the Namibia National Teachers Union (NANTU) over the past few months. Sadly, these negotiations failed and the majority of the members of NANTU's bargaining unit voted in favor of the industrial action (a strike) across the country.
2. During the course of this past week, the Parties have been engaged in the process of formulating Strike Rules. Unfortunately, this engagement failed, in that the Parties could not agree on certain limited issues which must form part of the Rules.
3. As a result the Conciliator was obliged to determine the Strike Rules in terms of Rule 5 of the Code of Good Practice on Industrial Actions and Picketing, published in the Government Gazette of October 19, 2009, Gazette No. 4361 in Government Notice No. 208.
4. These issues concerned:

4.1 The notice period to commence with the contemplated action:

- 4.1.1 The Government and NANTU could not agree to a notice period therefore the Conciliator granted only 7 working days notice period to commence with the action.
- 4.1.2 The 7 working days in the issued Strike Rules are not sufficient for the Government to deploy logistical arrangements for volunteers to attend to the work of the striking teachers, should the strike proceed.
- 4.1.3 Government considered that its teachers are deployed all over the country and has to ensure that 707 878 learners continue learning and writing their examinations in a conducive environment. This is a huge logistics endeavor.

4.2 Where the strike shall be conducted:

- 4.2.1 NANTU and Government could not agree on the location for the conducting of the strike, and as such, the Conciliator in the Strike Rules issued that the strike should take place within 500 meters away from schools.
- 4.2.2 Government is concerned that the strike action within such a proximity may interfere with the teaching, learning and examination of the learners.

4.3 Engagement of volunteers during the strike:

- 4.3.1 In terms of section 76(3) of the Labour Act, 2007 (Act No. 11 of 2007) ('the Act') an employer is not permitted to require non-striking staff to perform the work of the striking staff, and neither is an employer permitted to hire staff to perform the work of striking staff.
- 4.3.2 Government's interpretation, which is supported by the opinion of the Attorney-General and another opinion by external counsel, distinguishes non-remunerated volunteers from the prohibition of section 76(3) of the Labour Act, 2007, and advised that indeed, volunteers who will not be paid can be engaged so as to ensure that examinations will be conducted.
- 4.3.3 NANTU did not agree with this interpretation and as a result, it was left to the Conciliator to make a ruling and issue Strike Rules covering *inter alia* this particular matter.

- 4.3.4 The Strike Rules issued by the Conciliator did not specifically deal with this issue, as the Conciliator simply imposed the specific text of section 76(3) of the Labour Act, 2007.
5. Whereas the Government respects the determination by the Conciliator, Government, on the basis of the legal opinions of the Attorney-General and external counsel, strongly believes its understanding of the Labour Act, 2007 to be correct and our lawyers are seized with the matter.
6. Government therefore wishes to inform the public, in particular its stakeholders in education, the learners, the parents, the communities and service providers, that:
- 6.1 Government is committed to ensuring that the 2016 National Examinations for learners will be conducted, as the consequences of the examination not being conducted are too dire to contemplate;
- 6.2 Government fully respects the rights of its staff members to participate in lawful industrial actions, as long as such does not infringe upon the fundamental rights of learners to education and to examinations in a peaceful environment; and
- 6.3 The teaching, learning and national examination processes shall continue as scheduled.
7. We thank you for understanding and appreciating the difficult position in which the Government has been placed.

Office of the Prime Minister

Per The Permanent Secretary