



ESSENTIAL SERVICES – APPLICATION, INVESTIGATION AND DISPUTE RESOLUTION

ESSENTIAL SERVICES

Essential services are those that, if interrupted would endanger the life, personal safety or health of the whole or any part of the population.

The Parliamentary Service and the South African Police Services are designated as essential services in terms of the Labour Relations Act, 1995. The Essential Services Committee (ESC) working under the auspices of the CCMA designates other services as essential services.

No strikes or lock-outs are permitted in essential services, and disputes may be referred to the CCMA for conciliation and arbitration.

MAINTENANCE SERVICES

A service is a maintenance service if the interruption of that service will destroy any working area, factory or machinery. The whole or part of a business may be declared a maintenance service.

MAINTENANCE SERVICE APPLICATIONS

An employer may apply to the ESC to determine whether the whole or part of a business is a maintenance service.

The employer must complete and deliver Form LRA 4.3 to the CCMA Head Office and to all interested parties.

INVESTIGATIONS

The ESC may conduct two types of investigations. These are—

- ◆ Proactive investigations
The ESC gives notice in the Government Gazette of its intention to investigate certain services to determine whether they are essential services. Any interested party may make written or oral representation to the ESC. There is no prescribed form for such an investigation.
- ◆ Bargaining council trigger
A bargaining council may request the ESC to conduct an investigation. The ESC must then proceed with the investigation in the same way as indicated above.
The bargaining council must complete Form LRA 4.7 and send it to the CCMA Head Office.

RATIFICATION OF COLLECTIVE AGREEMENTS PROVIDING FOR MINIMUM SERVICES

Trade unions and employers may request the ESC to ratify their collective agreements which provide for the rendering of a minimum service in a service that has been designated as an essential service. The minimum service may include agreement on the number and categories of employees who may strike, or about controlling the form and duration of industrial action. Form LRA 4.8 must be completed and delivered to the CCMA Head Office and to all the other parties to the agreement.

DISPUTES

The ESC may determine two types of disputes in essential services. They are disputes about—

- ◆ whether a service is an essential service;
- ◆ whether an employee or employer is engaged in a service designated as an essential service.

Form LRA 4.2 must be filled in and delivered to the CCMA Head Office and to the other parties in the dispute.

ESSENTIAL SERVICES COMMITTEE

The ESC is involved in—

- ◆ investigating services to determine whether they are essential services;
- ◆ determining whether the whole or part of a business is a maintenance service;
- ◆ ratifying collective agreements which provide for the rendering of a minimum service in a service designated as an essential service; and
- ◆ determining disputes as to whether employers or employees are engaged in an essential service

RELEVANT LEGISLATION

Labour Relations Act, ss70—74

Refer to the Flow Diagram 8 in the Labour Relations Act for the procedure on disputes regarding essential services.