

NATIONAL ASSEMBLY

FOR WRITTEN REPLY

QUESTION 3293

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(INTERNAL QUESTION PAPER: 40/2012)

Mr A M Mpontshane (IFP) to ask the Minister of Basic Education:

- (1) What measures does she intend to implement to ensure that (a) strike action by teachers' unions and (b) teacher apathy do not cripple the teaching profession in the next academic year;
- (2) whether she intends to declare the teaching profession an essential service; if not, why not; if so, what are the relevant details? NO4067E

REPLY:

- (1) **What measures does she intend to implement to ensure that (a) strike action by teachers' unions and (b) teacher apathy do not cripple the teaching profession in the next academic year?**

In order to ensure that strike action (a) by teachers' unions and (b) teachers apathy do not cripple the teaching profession in the next academic year, the principle of "No Work, No Pay" would be adhered to. There would, however, be an investigation in situations where individual members did not render services outside the strike notice period and or continue to withdraw their labour even after the strike has officially been called off. The normal administrative or disciplinary measures would then apply.

The above-mentioned principle is further supported by Section 64 of the Labour Relations Act, 66 of 1995, which affords the Employer the right to withdraw any remuneration through the principle of ‘ No Work, No Pay” in instances where the employee decides to withdraw his/her labour.

PSCBC Resolution 1 of 2007 also regulates the application of “No Work, No Pay” within the Public Service.

My Department also has a strike management policy guideline in place to guide provinces on how to manage strikes and to ensure that all managers are informed of what to do in the event of strikes.

(2) Whether she intends to declare the teaching profession an essential service; if not, why not; if so, what are the relevant details?

Currently, the Department is not planning to declare teaching an essential service, however, there are plans in consultation with the DPSA to designate in future only a certain part of the Sector, i.e. the principals. In doing this, we will also comply with the ILO declaration on “Fundamental Principles and Rights at Work”. This ILO declaration states that if the collective bargaining system does not produce an acceptable result and strike action is taken, certain limited categories of workers can be excluded from such action to ensure the basic safety of the population and essential functioning of the state.

Under labour law, essential services are those that society cannot do without, even momentarily, because of the potential of losing a limb or life. Those services that are truly essential - such as health, fire and police are expected by law to be available 24 hours of the day, 7 hours of the week and 365 days of the year. Clearly, public schools that operate from Monday to Friday, 200 days a year are not in the same category as hospitals, fire halls and police stations. It is therefore clear that the disruption of schooling due to labour disputes, while inconvenient is not a matter of life and death. Imposing essential service

legislation and eliminating teachers' right to strike is a significant step in the wrong direction as it would take away a fundamental right to strike. The right to strike, however, must be balanced with the right to education; something my Department will engage all stakeholders in. Stronger action, even dismissal will be taken against educators who engage in wild cat strikes and cause disruption in schools. It is however important that educators realize their responsibility as "loco parentis" and be trusted to act responsibly when deciding whether to take industrial action.

