

# PICKETING

## Introduction

In terms of section 69 of the Labour Relations Act 1995 (Act No 66 of 1995) a registered trade union may authorise a picket by its members and supporters for the purposes of peacefully demonstrating-

(a) in support of any protected strike; or

(b) in opposition to any lockout."

A picket will only be regarded as legal if it takes place in support of a protected strike or in opposition to a lock out.

The most important requirements for a lawful picket are summarised below:

- Only a registered trade union may authorise a picket.
- A picket may be held at any place to which the public has access outside the premises of an employer. The Union who authorized the picket needs the employer's permission to picket inside the workplace. If an employer refuses permission for a picket to take place inside the premises, the CCMA may overrule the employer if the refusal to grant permission is unreasonable taking into account the conduct of the picketers, the duration of the picket, the number of employees taking part, etc.
- The picket must be peaceful. The parties must take account of any picketing rules to which they have agreed and must take into account the code of good practice on picketing issued by NEDLAC.

## Code of Good Practice on Picketing

The code of good practice on picketing provides practical guidance on picketing in support of a protected strike or in opposition to a lock-out. It is a guide to those who take part in the picket and for employers, other employees or members of the public who may be affected by the picket. The code does not impose any legal obligations and a failure to observe it does not in itself render anyone liable. The code only applies to pickets that are authorised by a registered trade union and where only members and supporters of the trade union may participate.

A registered trade union must authorise the picket. This means that there must be either a resolution authorising the picket or a resolution permitting a trade union official to authorise the picket. The authorisation must be in writing and must be served on the employer before the commencement of the picket.

The union and employer should attempt to agree on picketing rules. This would include:

- an agreement on the number of picketers,
- the duration of the picket,
- the location of the picket,
- communication between marshals and the employers representatives, and
- access to the employer's premises for purposes other than picketing e.g. access to toilets or telephones.

A registered trade union must appoint a convener to oversee the picket who must be a member or an official of the trade union. That person should at all times have:

- ◆ a copy of section 69 of the Act which deals with pickets;
- ◆ a copy of the code of good practice on picketing;
- ◆ any collective agreement or rules regulating pickets; and
- ◆ a copy of the resolution of the trade union authorising the picket.

The picketers must conduct themselves in a peaceful, unarmed and lawful manner and may carry placards, chant slogans and sing and dance. They may not physically prevent members of the public from gaining access to or leaving the employer's premises and they may not commit any action which may be unlawful or which may be perceived to be violent.