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LRA2/6/6/1

CIRCULAR



CIRCULAR NO: 7/2017

DATE: 9 MARCH 2017

TO ALL PARTICIPANTS IN THE MOTOR INDUSTRY

LABOUR RELATION ACT: Form 9.2; TO BE COMPLETED AFTER A STRIKE



The Department of Labour has requested MIBCO to educate all employers in the Motor Industry on the responsibility they have in completing the Labour Relations Act form 9.2, as prescribed by the Labour Relations Act, after a strike. This form must be completed by the employer to keep a record of any strike, lock-out or protest action involving its employees.

Please note that this is a proactive communicate to ensure that all employers are aware of the process which they have to follow after a strike and to ensure that the Department of Labour receives accurate data on strikes within the specified time frame. MIBCO and its parties have concluded a peace clause in the main agreements, and therefore there were no strikes during the wage negotiations.

Please keep these forms in case of any unprotected strikes that may emerge in the future.

Subject to section 205 (3) (a) (b) of Labour Relation Act 66 of 1995 (LRA) places a duty on the employers to keep records of any strike activity involving their employees and to submit this information on demand; The employer must submit this forms within seven days of the completion of the strike, lockout or protest action. If a strike, lockout or protest action occurs in more than one workplace of a single employer then a separate form must be completed for each workplace.

The MIBCO Team

LRA Form 9.2 Section 205(3)(a) Labour Relations Act, 1995	RECORD OF STRIKE, LOCK-OUT OR PROTEST ACTION 
<p>READ THIS FIRST</p>  <p>WHAT IS THE PURPOSE OF THIS FORM?</p> <p>An employer must keep a record of any strike, lock-out or protest action involving its employees.</p> <p>WHO FILLS IN THIS FORM?</p> <p>The Employer / relevant Employers' Organization</p> <p>WHERE DOES THIS FORM GO?</p> <p>The Director-General, Department of Labour, Private Bag x117, Pretoria, 0001 Tel: (012) 309 4004 Fax: (012) 309 4406 E-mail: Strikes@labour.gov.za</p> <p>OTHER INSTRUCTIONS</p> <p>The employer must submit this form within seven days of the completion of the strike, lockout or protest action.</p> <p>If a strike, lockout or protest action occurs in more than one workplace of a single employer then a separate form must be completed for each workplace.</p>	<p>RECORD OF DETAILS OF STRIKE, LOCKOUT OR PROTEST ACTION TO BE KEPT BY EMPLOYER IN TERMS OF SECTION 205(3)(a)</p> <p>1) EMPLOYER DETAILS</p> <p>Name company:.....</p> <p>Contact Person:.....</p> <p>Physical address:</p> <p>Province:</p> <p>Tel: Fax:</p> <p>E-mail address:</p> <p>Industry:</p> <p>Sub-Sector / Nature of business</p> <p>2) EMPLOYEE DETAILS</p> <p>2.1 Total number of workforce:</p> <p>2.2 Working time <i>(Please complete where applicable)</i></p> <p>Number of ordinary <i>hours</i> worked per day: / Shift.....</p> <p>Number of ordinary <i>days</i> worked per week: / Shift</p> <p>3) DETAILS OF THE ACTION (see definition on Page 3)</p> <p>3.1 Nature of action:</p> <p><input type="checkbox"/> Strike in company only</p> <p><input type="checkbox"/> Multi-employer strike</p> <p><input type="checkbox"/> Lockout</p> <p><input type="checkbox"/> Stay-away, protest action</p> <p><input type="checkbox"/> Other industrial action, specify</p> <p>.....</p>

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Yes	No
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Was replacement labour used?

Yes	No
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Began:
(Date) (Time)

Ended:
(Date) (Time)

Duration in workdays (or hours if relevant)

Number of employees participating¹:Number of employees affected²:

Total work-hours lost:

Total wages not paid (in Rands):.....

Yes	No
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Name of Trade Union	Number of employees involved per union
TOTAL	

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3.5 Compliance with the Act

Was the action in compliance with the Act? (e.g. procedural or un-procedural)

Yes	No	Don't know
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3.6 Strike reasons:

<input type="checkbox"/> Wages only (If the action was a wage strike, kindly indicate the following):- Percentage demanded by Union..... Percentage offered by employer Percentage agreed on by both parties..... <input type="checkbox"/> Bonuses and other compensation <input type="checkbox"/> Retrenchments / Dismissals <input type="checkbox"/> Working conditions <input type="checkbox"/> Socio-economic / political conditions	<input type="checkbox"/> Refusal to bargain <input type="checkbox"/> Secondary action from another dispute <input type="checkbox"/> Grievances <input type="checkbox"/> Disciplinary matters <input type="checkbox"/> Organizational rights
<input type="checkbox"/> Any other reason, (please specify).....	
<p>¹ Workers <i>participating</i> are those workers who went on strike or were locked out as a result of the dispute.</p> <p>² Workers <i>affected</i> are those workers not involved in the strike but could not continue with their normal duties as a result of the strike.</p> <p>Name of employer (<i>in full</i>):</p> <p>Signature of employer: Date:</p>	

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DEFINITIONS**Strike:**

The partial or complete concerted refusal to work, or the retardation or obstruction of work, by persons who are or have been employed by the same employer or by different employers, for the purpose of remedying a grievance or resolving a dispute in respect of any matter of mutual interest between employer and worker, and every reference to work in this definition includes overtime, whether it is voluntary or compulsory (section 213).

Lockout:

The exclusion by an employer of workers from the employer's workplace. For the purpose of compelling the workers to accept a demand in respect of any matter of mutual interest between employer and worker, whether or not the employer breaches those workers' contracts of employment in the course of or for the purpose of that exclusion.

Secondary strike:

A strike in support of a strike by other employees against their employer. The strikers have no issue with their employer, but that employer might be in a strong position (due to there being a close business relationship as either an important customer or supplier) to pressurise the employer who is in dispute.

Protest action:

The partial or complete refusal to work, or the retardation or obstruction of work, for the purpose of promoting or defending the socio-economic interest of workers, but not for a purpose referred to in the definition of "strike".

Stay away:

Industrial action by a group of employees in the form of absenting themselves from work without permission in support of some socio-economic issue which does not relate to their employment situation.

Work hours:

Hours during which an employee is obliged to work. Work hours lost is calculated by multiplying the number of **all workers** involved in each stoppage by the number of hours the stoppage lasted.

Working days lost:

Days during which an employee is obliged to work working days is calculated by multiplying the number of workers involved in each stoppage by the duration of the stoppage in days lost and adding the totals for all stoppages during the reference period.