

15 March 2023

Dear Valued Member,

**SOUTH AFRICAN FEDERATION OF TRADE UNIONS (SAFTU) PLANS NATIONWIDE SHUTDOWN
– 20 MARCH 2023**

On 7 March 2023, the RMI circulated a newsflash informing members that SAFTU (The South African Federation of Trade Unions) will proceed with protest action commencing on **20 March 2023 at 00h05am** and **ending on 21 March 2023 at 07h00am**. All provinces across the country and all major cities may experience protest action in support of SAFTU's concerns over the socio-economic challenges affecting workers and the working class in general. Other reports indicate that the planned protest action is in support of the EFF's call to bring the country to a standstill on the 20th of March 2023.

Subsequent to the newsflash, the RMI received numerous queries with regard to the nationwide shutdown planned by the EFF on 20 March 2023 which requires clarity.

The protest action planned by SAFTU, although it might or might not be in support of the EFF's nationwide shutdown, is a protected protest action in terms of section 77 of the Labour Relations Act. That means that any trade union affiliated with SAFTU and consequently any employee registered with such a trade union may partake in the protest action without facing disciplinary action. It is important to note that the National Union of Metal Workers of South Africa (NUMSA) is an affiliate of SAFTU.

Consequently, NUMSA employees that wish to participate in the protest action on 20 March 2023 may therefore do so on a **'no-work-no-pay'** basis during this period. Furthermore, the **'no-work-no-pay'** principle applies in instances where employers receive notification from their employees informing them that they are unable to report for duty on the day due to the unrest or due to them receiving threats or being intimidated. The common law principle of *supervening impossibility of performance* is invoked and employers are absolved of their obligation to remunerate such employees for that day since the performance of their service has become temporarily impossible through no fault of the employer party concerned.

Members are encouraged to consider the following strategies to minimise the impact of the potential absenteeism on Monday 20 March 2023:-

- To conduct a survey amongst staff members to determine the extent of the stay-away.
- If the number of absentees is not substantial enough to completely disrupt operations for the day:-
 - To consider the implementation of flexible working arrangements for 20 March 2023.
 - To schedule agreements to work overtime for the week of 20 to 24 March 2023.
 - To consider the approval of leave for 20 March 2023 for those employees who will not be attending work.
- If the number is substantial enough to completely disrupt operations for the day, consider closing the business for the day and scheduling leave for 20 March 2023 for all employees. It is important to note that section 20(10) of the Basic Conditions of Employment Act provides that leave should be taken at a time agreed by the parties, alternatively as directed by the employer. That means that if an agreement cannot be reached with employees to take leave for the day, the employer can, without the consent of the employees, direct leave to be taken on 20 March 2023.

Please note that since the Main Agreement has not been published yet, the penalty clause is therefore not applicable. The day following the protest action is Human Rights Day (Tuesday, 21 March 2023), which is a public holiday and employees are therefore to be paid for the public holiday in terms of the Public Holidays Act and the Basic Conditions of Employment Act respectively, irrespective of their attendance or non-attendance on Monday 20 March 2023.

If you have any queries in this regard, please contact your local IR Specialist: [IR Contacts - Retail Motor Industry Organisation \(rmi.org.za\)](https://www.rmi.org.za).

Regards



JACQUES VILJOEN
DIRECTOR : LABOUR