

**CIRCULAR TO THE INDUSTRY**

**CLARITY ON INNOVATIVE STAFFING SOLUTIONS AND INNOVATIVE STAFF HOLDINGS**

Council has received queries from industry members to ascertain whether Innovative Solutions Group falls within the scope of the Council and whether its business model complies with Council's Collective Agreement.

The purpose of this circular is to inform the industry on what Council has done thus far so as to ensure that Innovative Solutions Group does comply with provisions of the Collective Agreement.

1. The Innovative Solutions Group comprises of Innovative Staffing Solutions (ISS) and Innovative Staff Holdings (ISH) which purport to provide to their clients a solution to all their staffing requirements. They offer to their clients a take-over of their labour forces by seeking to have their clients outsource their work force to ISH/ISS. Pursuant to this business model ISH/ISS, takes transfer of their clients' staff, purportedly in terms of Section 197 of the LRA from which time ISH/ISS, and takes over all employment responsibilities and liabilities pertaining to the staff of those clients.
2. The clients of Innovative Solutions Group include, in particular road transport companies, which fall within Council's jurisdiction.
3. Some of the transport companies have outsourced their staff requirements to ISH/ISS, and consequently transferred those staff to ISH/ISS. The aforesaid staff continue after such outsourcing and transfer to render the same services to the clients as before such outsourcing and transfer. In this regard, the Council contends that the Innovative Solution Group's model is no different to the model provided by TES companies and as result, such model falls under and must comply with the Council's Main Collective Agreement.

4. Most of the companies taken over by ISH/ISS are transport companies operating within the jurisdiction of the Road Freight and Logistics Industry and are registered as such.
5. However, neither ISH/ISS has registered with the NBCRFLI nor paid to it any contributions in respect of the employees outsourced to them.
6. As indicated above, Council believes that ISH and ISS fall within its jurisdiction. Hence, Council has declared a demarcation dispute against ISH/ISS. A settlement agreement was entered into at the CCMA on 12 August 2019 whereby ISH accepted that it fell under the Council's jurisdiction and undertook to register its business operations with Council.
7. ISH failed to register its operations as per the aforesaid settlement agreement and a subsequent Section 142A application was issued to make the agreement an Award.
8. Council thereafter applied to the Labour Court to declare ISH and its director to be in contempt.
9. On 28 February 2020 a Court Order was obtained whereby ISH was ordered to register its operations with Council by no later than 13 March 2020 and file its first return by no later than 20 April 2020. This Court Order was not complied with and on 21 August 2020 ISH's director was found to be in contempt. This Order was issued notwithstanding that ISH placed itself into voluntarily liquidation shortly before the Labour Court was due to hear the Contempt of Court application.
10. On the 21 August 2020, the Labour Court also suspended its contempt order on the condition that the relevant returns are submitted by 31 October 2020. The returns were not submitted and the Labour Court has issued a warrant for the arrest of the previous Managing Director of ISH.

11. The demarcation dispute in relation to ISH was thereafter adjudicated. At the beginning of March 2021, the CCMA handed down a Demarcation Award finding that ISS fell under the registered scope of the Council.
12. ISS have brought an application to review that Demarcation Award. The Council has opposed that review application. ISS also brought an application to stay the effect of that Award. By agreement, ISS was granted a stay of that Demarcation Award up until 30 June 2021, on condition that it rendered certain returns to the Council. ISS once again failed to render such returns and consequently the Demarcation Award remains binding.
13. In consequence, as a result of a previous agreement reached with ISH (before it was liquidated) and a binding CCMA Demarcation Award in respect of ISS, the Innovative Staffing Group falls under the registered scope of this Council, to the extent that it provides services to any road freight companies.
14. The Council is proceeding with enforcement against ISS.

Yours sincerely

**Musa Ndlovu**  
**National Secretary**

**(This document has been sent electronically and is therefore not signed)**