

### 97C. Participation in strike

- (1) A member of an organization of employees shall not participate in any form of strike unless —
  - (a) a pre-strike ballot in respect of that form of strike was ordered to be held under section 97F (2) or (4);
  - (b) a ballot in respect of that form of strike has been conducted in accordance with this Part;
  - (c) the member was entitled to vote in that ballot;
  - (d) participation in that form of strike is endorsed by that ballot;
  - (e) the participation takes place within —
    - (i) 28 days of the declaration of the result of the pre-strike ballot which endorsed that form of strike; or
    - (ii) if that period has been extended by order under section 97J, the period specified in the order; and
  - (f) notice of intention to participate in that strike has been given in accordance with section 97I.

- (2) If an organization of employees or an officer or employee of an organization of employees —
  - (a) incites, encourages or assists a member of the organization to participate in a strike in contravention of subsection (1); or
  - (b) is in any way by act or omission and directly or indirectly knowingly concerned in or party to a contravention of subsection (1),

the organization, officer or employee, as the case may be, commits an offence.

Penalty:

- (a) in the case of an individual, \$1 000 and a daily penalty of \$200; and
  - (b) in any other case, \$5 000 and a daily penalty of \$1 000.
- (3) For the purposes of subsection (1) (d), participation in a particular form of strike is endorsed by a pre-strike ballot if —
    - (a) the majority of persons who were entitled to vote in the ballot voted "Yes" to the question applicable to participation in that form of strike; or
    - (b) at least 75% of the persons who were entitled to vote in the ballot voted in the ballot and a majority of those voting voted "Yes" to the question applicable to participation in that form of strike.
  - (4) For the purposes of subsection (2), ascertaining the views of members as to a contemplated strike, or providing advice or information on a contemplated strike, does not constitute incitement, encouragement or assistance, or concern or participation in a contravention of subsection (1).

- (5) In subsection (2) —

**“employee of an organization of employees”** means an employee who is entitled to participate directly in the management of the organization, including an employee who is entitled to so participate in a representative or advisory capacity.

*[Section 97C inserted by No. 3 of 1997 s.10.]*