

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.]