

NEDLAC PROTOCOLS

PROTOCOL FOR TABLING AND CONSIDERING ISSUES AT NEDLAC

1. BACKGROUND

- 1.1 The National Economic Development and Labour Council (Nedlac) was established by statute in 1995.
- 1.2 The legislated objects, powers and functions of Nedlac are to:
 - 1.2.1 Strive to promote the goals of economic growth, participation in economic decision making and social equity;
 - 1.2.2 Seek to reach consensus and conclude agreements on matters pertaining to social and economic policy;
 - 1.2.3 Consider all proposed labour legislation relating to labour market policy before it is introduced in Parliament;
 - 1.2.4 Consider all significant changes to social and economic policy before it is implemented or introduced in Parliament;
 - 1.2.5 Encourage and promote the formulation of co-ordinated policy on social and economic matters.

2. PURPOSE OF THIS PROTOCOL

- 2.1 To guide participants at Nedlac on the process for considering issues at Nedlac by clarifying sequences of actions, roles and responsibilities and decision-making procedures.
- 2.2 To improve the efficiency and effectiveness of Nedlac by developing clear and uniform processes for participants to follow in considering issues.

- 2.3 To enable participants to focus on issues of substance by clarifying process issues.
- 2.4 To provide conflict resolution mechanisms that enable participants to avoid deadlock and make progress in productive engagement.

3. STRUCTURES OF NEDLAC AND OUTLINE OF NEDLAC PROCESS

- 3.1 The following four constituencies may participate in the Council's structures: organized business, community, organized labour and the government.
- 3.2 The Nedlac Secretariat comprises full time staff to support the work of the constituencies in Nedlac and the Executive Director is the head of the Secretariat.
- 3.3 The key structures of Nedlac are:
 - The Executive Council (Exco), a governance structure;
 - The Management Committee (Manco), a governance structure that reports to the Exco;
 - The Council's four chambers, forums for engagement that report to the Manco, namely:
 - The Public Finance and Monetary Policy Chamber;
 - The Trade and Industry Chamber;
 - The Labour Market Chamber; and
 - The Development Chamber;
 - Task teams, which may be established by Manco or a Chamber to focus on a single issue;
 - The Section 77 Committee, which considers notices brought in terms of section 77 of the Labour Relations Act.

- 3.4 The Nedlac constituencies consider an issue in the following three phases:
- Phase 1: A constituency must table an issue for consideration.
- Phase 2: The constituencies must produce a Nedlac report on the issue.
- Phase 3: Nedlac must submit that report to the relevant Minister and to Parliament.

4. **TABLING AN ISSUE**

4.1 Authority to table an issue

- 4.1.1. Any constituency may table an issue at Nedlac.
- 4.1.2. The Government should table relevant forthcoming policy, regulations and legislation.

4.2 Procedure to table an issue:

- 4.2.1. A Government department wishing to table a matter at Nedlac must do so via the Executive Director, who would then allocate that matter to a Chamber or combination of Chambers for engagement.
- 4.2.2. A constituency that seeks to table an issue must first inform the relevant chamber coordinator that they wish to table an issue and request that the coordinator place the issue on the chamber's agenda.
- 4.2.3. The constituency tabling an issue must indicate the anticipated timeframes within which Nedlac should conclude its discussion of this issue.
- 4.2.4. The coordinator must place the issue on the chamber's agenda.

4.2.5. The chamber must classify the issue for consideration into one of the following four categories:

- Category one are policies or legislation that require a mere tweaking of proposals, or minimal engagement;
- Category two are those policies or legislation that require extensive engagement;
- Category three are those policies or legislation that require further information or systematic research; and
- Category four are green papers.

4.2.6. The following time frames apply to the categories of issues for consideration:

- On category one issues, the constituencies can spend no more than three months considering the issues, thereafter Nedlac will consider the process concluded;
- On category two issues, the constituencies can spend no more than six months considering the issue, thereafter Nedlac will consider the process concluded;
- On category three issues, the constituencies must negotiate and agree upon timeframes; and
- On category four issues, the constituencies will engage the issue in a single meeting unless the Overall Convenors agree that the issue is sufficiently complex to require a longer period of engagement not exceeding three months.

4.3 Managing the chamber agenda

4.3.1. The Leader of Government Business in Parliament meets with the Overall Convenors of Nedlac twice a year for a briefing on the legislative programme for the forthcoming year.

4.3.2. The following sequence should be observed:

(a) The constituencies should table and sign off on a policy document before engagement on the proposed legislation proceeds.

(b) The constituencies must ensure that they synchronize the Nedlac and Parliamentary processes to ensure that an issue is finalized at Nedlac before it goes before Parliament.

4.4. Agenda oversight

4.4.1. The Executive Director, with the assistance of the Head: Programme Operations must inform the overall convenors, and chamber convenors, on a routine basis of matters that have been tabled at Nedlac.

4.4.2. The overall convenors should approve a schedule, with time frames, to deal with tabled matters, and ensure that the relevant Chamber has classified each matter into one of the four categories. If the relevant Chamber has failed to classify the matter, the overall convenors must determine the category of the issue.

4.4.3. If the overall convenors in a particular instance are unable to revert within agreed timeframes, the Executive Director and the Nedlac Secretariat may recommend an approach for dealing with a matter, in consultation with chamber convenors. In

such an instance, the overall convenors must finalise the recommended approach.

4.5. Green papers

4.5.1. Green papers may contain proposals that change substantially in subsequent policy or legislation. Engagement on green papers should therefore be less extensive and in-depth than on white papers or draft legislation.

4.5.2. The Nedlac constituencies will engage on a green paper as follows:

4.5.2.1. The standard procedure for engaging a green paper will be for constituencies to engage the Department that produced the green paper in one meeting.

4.5.2.2. The Overall Convenors may determine that a green paper is sufficiently complex to require consultation in more than one meeting and may propose a longer time frame for consultation that may not exceed three months.

4.5.2.3. Green papers are for consultation only and not negotiation.

4.5.2.4. The Overall Convenors will determine which chamber engages on a green paper or if a task team should be convened for the purpose.

4.5.2.5. Constituencies should not engage a green paper on a line-by-line basis but at the level of principle.

4.5.2.6. Nedlac will produce a Report based on its consultation on a green paper in line with the Nedlac Protocol but this will not be subject to

the Protocol for Tabling Reports in Parliament.

4.5.2.7 Should Nedlac consider any policy or legislation emanating from a green paper previously tabled at Nedlac, the Nedlac secretariat will make the Nedlac Report on that green paper available to the constituencies.

4.5.28. In the event that government indicates that giving effect to the policy requires legislation, government will table the draft Bill at Nedlac for consideration.

4.6 White Papers and Draft Legislation

4.6.1. The chamber must agree on a process and timeframes to expedite matters tabled at Nedlac. For example a specific task team may be established or the chamber may consider the matter itself.

4.6.2. In cases where the issue falls within the terms of reference of more than one chamber, a joint task team may be established.

4.6.3. There may be circumstances where an issue is escalated to the level of a senior task team (such as a Manco task team). In this case, the issue will not be referred back to the chamber for sign-off, but will be signed off by the senior parties involved.

4.6.4. There may also be instances where the intervention of the relevant Minister/s may be required. In this case the government Convenor will take the responsibility to facilitate the Minister's attendance.

4.6.5 The purpose of engaging on issues is to reach agreement, and to arrive at a report which minimises, or preferably eliminates areas of disagreement. All

engagements must be geared towards this objective, including ensuring the necessary timeframes and procedures to allow completion of a meaningful negotiation.

- 4.6.6. The chamber or task team may require technical assistance on issues. In this case the constituency will be able to bring experts into the negotiating team processes.
- 4.6.7. Once the process of engagement on the policy has been finalised, a Nedlac report will be prepared for consideration and ratification by the relevant Nedlac structures, namely the Chamber, Manco and Exco. The Nedlac Report, after sign-off by the relevant Nedlac structures, will be sent to the relevant Minister, who will in turn table it in Parliament.

5. NEDLAC ROLES

5.1. The Chamber Convenors

- 5.1.1. A chamber convener must agree on the timeframe required to consider a matter that has been tabled with the other chamber convenors and ensure that the chamber members adhere to those time frames.
- 5.1.2. A chamber convenors must engage on the basis of a mandate from their constituency.
- 5.1.3. The chamber convener must keep his or her constituency regularly informed and updated on chamber matters being considered.
- 5.1.4. The convenors are responsible for overseeing the work of the task teams.
- 5.1.5. A convener should strive to maximise areas of

agreements and must be prepared to engage on issues beyond positional stances.

- 5.1.6. A convenors must ensure that their constituency representatives participate in the chamber's task teams and that the task teams complete their work within the agreed timeframes.
- 5.1.7. For each constituency, the convenor must appoint a task team convenor who will be responsible for facilitating the task team's work with the other task team convenors.
- 5.1.8. A convenor must ensure that when a task team has concluded a draft report, the chamber considers that report.
- 5.1.9. A convenor must respond to requests from chamber coordinators within the timeframes specified in the coordinator's correspondence.

5.2. The Secretariat

- 5.2.1. On receipt of an issue for tabling, the chamber coordinator will determine the timeframe within which the chamber should sign off on it and alert the chamber convenors that they have received the issue.
- 5.2.2. The chamber coordinator will agree on how to handle the matter in consultation with the convenors; for example, the coordinator and convenors may agree to wait for a chamber meeting to address the issue or agree to a process to be followed without waiting for a chamber meeting.
- 5.2.3. The chamber coordinator will call for the constituencies to nominate individuals to consider the matter by sending a request for

- nominations to the chamber convenor and the constituency office. If a joint task team has been established, the call for nominations will go to the convenor from either chamber.
- 5.2.4. The chamber coordinator will prepare a programme of meeting dates for the chamber to consider in the first meeting of the task team, taking into account the timeframes determined in
 - 5.2.5. Where a joint task team has been established, the Head: Programme Operations will assign responsibility for the task team to one of the chamber coordinators.
 - 5.2.6. A chamber coordinators will prepare meeting agendas, briefing documents to inform deliberations and a draft report from the discussions of each meeting. The coordinator must copy the correspondence to the representatives on the task team to the chamber convenors.
 - 5.2.7. The chamber coordinator must ensure that once the report has been approved by the chamber, it is placed on the agenda of the next Manco. If there is not enough time for Manco to consider the report, the coordinator must submit the report to the Overall Convenors for ratification. The Head: Programme Operations, and in his/ her absence, the Executive Director, together with the chamber convenors must monitor compliance with this requirement.
 - 5.2.8. Chamber coordinators must specify a timeframe within which a response is required for all correspondence where relevant.

- 5.3. Constituency Representatives
 - 5.3.1. A representative must have a mandate to participate in a discussion with a view to making progress at each meeting.
 - 5.3.2. A representative must ensure that they respond to correspondence from the secretariat within the specified timeframes.
 - 5.3.3. A representative must attend the meetings of the task team to which that representative has been nominated.
 - 5.3.4. Constituencies must identify alternates to attend task team meetings if the principal negotiator is unavailable.
 - 5.3.5. A representative must be prepared to engage on issues beyond a positional stance.
 - 5.3.6. A representative must respond to requests from chamber coordinators within the timeframes specified in the coordinator's correspondence.

6 TIME SCHEDULES FOR ACTION

- 6.1. The secretariat must distribute the agenda for a meeting to all members at least two working days before a task team meeting and five working days before a chamber meeting.
- 6.2. The secretariat must confirm the draft agenda for a chamber meeting with the chamber convenors prior to distribution.
- 6.3. The secretariat must distribute an action list based on decisions taken at any meeting within one working day of that meeting.
- 6.4. The secretariat must distribute minutes of a meeting within five working days of any meeting.
- 6.5. If the secretariat does not receive responses from all of

- the constituencies, the secretariat should send the constituencies a second request with a shorter deadline.
- 6.6. If the secretariat does not received responses from all of the constituencies by the second deadline, the secretariat must send a letter to the relevant chamber convenors, copying the overall convenor, for action.

7. THE NEDLAC REPORT

- 7.1. The Nedlac report is the official and public report on the consideration of a matter by Nedlac. It is therefore essential that this report be of the highest standard. Where appropriate, agreements should be captured in legal form. The report should comprise the following sections:
- 7.1.1. Background (a brief description of what the issues are and how the issue arrived at Nedlac)
- a) The Nedlac Process: A step-by-step account of the process, including the terms of reference of the task team, its meeting times and members
 - b) The agreement Any disagreements
Legal drafting where agreed Conclusion
- 7.2. The task team must approve the draft report which is then submitted to the following structures in this sequence for ratification: the relevant chamber; Manco; Exco. The report is only officially a Nedlac report once Exco ratifies it.
- 7.3. If, because of time or other constraints, Exco cannot consider and ratify the report, Manco may ratify it. If the Manco meeting cannot consider the report because of time

considerations, the Overall Convenors can ratify it. The chamber coordinators must alert the Head: Programme Operations as early as possible that a special process may be required. The Overall Convenors may only ratify a report if Manco has delegated this responsibility to them; or if the matter is sufficiently urgent in the view of constituencies or the Executive Directive to necessitate speedy ratification.

- 7.4. If one of the constituencies holds the opinion that the report is unlikely to be accepted at Manco, the chamber may recommend that the Overall Convenors make an attempt to resolve the matter.
- 7.5. When the Nedlac report has been ratified, the secretariat must send it with a cover letter signed by the Executive Director to the Minister of Labour and the Minister responsible for, or associated with, the issue to which the report refers.
- 7.6. The coordinator must track and monitor the consideration of the Nedlac report in the Parliamentary process. This includes:
 - 7.6.1 Ensuring that the relevant Portfolio Committee has access to the Report. The Report would however be tabled in Parliament via the relevant Minister.
 - 7.6.2. Liaison with the relevant Parliamentary Officer to find out the dates on which the issue will be considered by Parliament and the Portfolio Committee.

- 7.6.3. Seeking direction from the convenors on whether it is appropriate for the Nedlac constituencies to make a joint presentation of the report to the Portfolio Committee.
 - 7.6.4. Finding out what amendments, if any, the Portfolio Committee makes to the legislation.
 - 7.6.5. Obtaining copies of the amended and final Bill.
 - 7.6.6. When legislation on which a Nedlac report has been finalised is tabled in Parliament, facilitating the introduction of the report by a Nedlac delegation prior to public hearings as necessary (see 7.6.1. and 7.6.3.).
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- 7.7. The chamber may request the coordinator to monitor the implementation of the bill to which the report refers and report back to the chamber. In this case, the chamber must make clear what the requirements for feedback on implementation are and ensure that it is within the capacity of the secretariat.



8. Check-List Managing Negotiations:

Task	Frequency	Responsibility
Determine terms of reference and time-table of task team (composition, objectives, agenda, outcomes, timeframes, process for ratification of report)	At the start of a process	Coordinator and chamber
Constitute task team	At the start of a process	Convenors to submit names of representatives
Determine chairing and reporting	At the start of a process	Coordinator with constituencies
Ensure distribution of documentation	Each meeting	Coordinator and administrator
Follow-up on action points from meetings	Each meeting	Coordinator
Liaise with task team members to ensure that they are kept up to date on progress	On a regular basis	Coordinator
Prepare draft reports on agreements	At the end of a process	Coordinator
Report to chamber convenors, the Executive Director and Head: Programme Operations	Each week and as required	Coordinator
Ratification of report	At the end of the process	Chamber • Manco • EXCO
Send report to Minister with letter from the Executive Director	At the end of the process	Coordinator
Ensure Report is available to the Portfolio Committee	At the end of the process	Coordinator and chamber
Find out dates on which the issue is to be considered by Parliament and the relevant Portfolio or Select Committee.	At the end of the process	Convenors to submit names of representatives
Check whether a joint presentation of the report to the Portfolio Committee is appropriate.	At the end of the process	Coordinator with Constituencies
Monitor the circulation of amendments in the Portfolio Committee	At the end of the process	Coordinator and administrator
Circulate amended and final Bill	At the end of the process	Coordinator
Monitor the implementation of the agreement, based on available capacity.	As needed after the process	Coordinator

9. SUBMISSION OF REPORTS

9.1. Protocol for Tabling the Nedlac Report in Parliament.

- 9.1.1. All Nedlac reports are submitted to the Minister of Labour and the Minister responsible for, or associated with the issue.
- 9.1.2. It is the Minister concerned who is responsible for tabling the Nedlac report in Parliament.
- 9.1.3. However, there may be cases where it is important for the social partners to jointly present the contents of the Nedlac report during the public hearings held by the relevant Portfolio or Select Committee at Parliament. These cases will tend to be issues where the social partners have reached consensus on substantive issues.
- 9.1.4. There will be a consideration by the convenors, on a case-by-case basis, of whether or not a joint presentation of the report by the social partners to Parliament is necessary. This consideration will take place at the time that the Nedlac report is being finalised.
- 9.1.5. Generally, where the Nedlac report deals with an issue that is technical in nature, the report will be submitted to the Minister and presented by the Minister in Parliament.

- 9.2. Raising Reservations about an Issue in Parliament
- 9.2.1. Parties are bound not to re-open discussion in Parliament on any area where agreement was reached in Nedlac.
- 9.2.2. Parties have the right to raise issues in Parliament on which there has been no agreement, or on which a Nedlac agreement was silent.
- 9.2.3. However if parties raise issues during the Parliamentary process on which the Nedlac agreement was silent, or new issues, which go beyond the reservations captured in the Nedlac report, they should inform both Nedlac and the other parties for the record.
- 9.3. Monitoring the Passage of an Issue through Parliament
- 9.3.1. The coordinator will liaise with the relevant Parliamentary Officers in order to monitor the passage of an issue through Parliament.
The Head: Programme Operations will provide such support as may be required.
- 9.3.2. This liaison will include obtaining information about the dates and agendas of portfolio or select committee meetings.
- 9.3.3. The coordinator will also obtain copies of a bill before it is tabled in Parliament and forward copies thereof to the convenors in order that the convenors may check the

bill's consistency with the agreements concluded in Nedlac. The Head: Programme Operations will provide such support as may be required.

- 9.3.4. Government departments are bound, as one of the parties, to accurately reflect the agreements that were reached at Nedlac in the drafts that they put before Parliament. Where detailed legal drafting was agreed, this must be submitted as agreed. Where specific legal drafting was not negotiated, the substance and spirit of the Nedlac agreement must be reflected in the legal drafting put before Parliament.
- 9.3.5. If the Bill is not consistent with the agreements reached in Nedlac, then a process must be triggered on an urgent basis to address Parliament, as well as the Leader of Government Business, should be officially notified by the Executive Director while the situation is rectified.

10. MONITORING IMPLEMENTATION OF THIS PROTOCOL

- 10.1. The Leader of Government Business should be requested to nominate someone in his or her office to coordinate in with Nedlac ensuring that the commitments in this protocol are effectively coordinated within government. This person should assist in the tracking of relevant processes within government, and addressing any bottlenecks in this regard. The responsibility to put forward government's views within Nedlac remains, however, with the government department responsible for co-ordinating the work of Government with Nedlac.

10.2. Manco must agree on a mechanism to monitor and ensure implementation of the commitments contained in this Protocol. As a transitional mechanism, Overall Convenors could act as an advisory committee to assist the Executive Director in this regard.



**PROCEDURE FOR CONSIDERING NOTICES
OF POSSIBLE PROTEST ACTION (“the Procedure”)
IN TERMS OF SECTION 77 OF THE
LABOUR RELATIONS ACT, 66 OF 1995 (“the Act”)**

**This Procedure is attached to the Code of Good Practice on
Consideration of Notices of Possible Protest Action in terms of Section
77 of the Labour Relations Act 1995 (The Code of Good Practice)**

1. Establishment of the Section 77 Standing Committee Of Nedlac

- 1.1 A Section 77 Standing Committee (“the Committee”) shall be established by Nedlac to consider section 77(1) (b) notices in terms of section 77(1) (c) of the Act.
- 1.2 The Committee shall comprise of five members: one member each nominated by the four Nedlac constituencies, plus the Executive Director.
- 1.3 An alternate should be nominated by the principal delegate as a replacement to attend the Committee meetings when the principal delegate is absent.
- 1.4 The Committee must nominate a high level panel of five individuals experienced in facilitation, mediation and arbitration or otherwise suitably qualified to facilitate the consideration of notices referred to it by the Committee

2. Confirmation of Notice in Terms of section 77(1)(b) of the Act

- 2.1 When Nedlac receives a notice contemplated in terms of section 77(1) (b) of the Act, the Executive Director must ascertain within two working days of receiving the notice, whether the notice complies with the administrative provisions of the Act.

- 2.2 Without limiting clause 2.1, the Executive Director must -
- 2.2.1 Ascertain whether the party that submitted the notice (the referring party) is a registered trade union or a federation of trade unions and
 - 2.2.2 Attempt to clarify any details which are not apparent from the face of the notice, such as the party issuing the notice (the referring party), the reason for the intended protest action and the nature of the protest.
- 2.3 The Executive Director must table a copy of the notice and any related correspondence before the Committee, the referring party and any respondent parties identified in the notice.
- 2.4 If the Executive Director is not satisfied that the notice complies with the administrative requirements of the Act, the Executive Director must advise the referring party forthwith in writing and request it to ensure compliance.
- 2.5 If the Executive Director is satisfied that the notice meets with the administrative requirements, the Executive Director must inform the Committee and the parties in writing forthwith of the first meeting.
- 2.6 The issue whether or not the matter is of a socio-economic nature shall be determined by the Committee

3. Convening a meeting of the Committee to consider the notification in terms of section 77(1)(c) of the Act

- 3.1 The Executive Director must convene a meeting of the Committee and the parties to the notice to consider the matter giving rise to the intended protest action, within ten calendar days of Nedlac receiving a notice that complies with section 77(1) (b).
- 3.2 The party at which the notice is directed (the responding party) should be given a minimum of 7 (seven) calendar days to consider the notice before the meeting.
- 3.3 If more than one notice is received in terms of section 77(1) (b) relating to the same matter, the notices may be dealt with simultaneously by the Committee in terms of this Procedure.
- 3.4 A record of all meetings of the Committee must be kept by the Secretariat.
- 3.5 In order for the Committee to consider the matter giving rise to the intended action in terms of section 77(1)(c):
 - 3.5.1 the referring party must be given an opportunity at the meeting to elaborate on the notice, motivate why it has called the intended protest action, and specify how it believes the matter can be resolved;
 - 3.5.2 the responding party must be given an opportunity at the meeting to respond to the referring party and to specify how it believes the matter can be resolved; and
 - 3.5.3 the Committee and the parties must discuss and respond to proposals made by either of the parties to the matter or by any member of the Committee.
- 3.6 The Committee may schedule further meetings with the parties.

- 3.7 The Committee must produce a Report, within five (5) days of the conclusion of the process listed in clause 3 of the Code of Good Practice issued in terms of Section 203 of the Labour Relations Act, 66 of 1995 setting out:
 - 3.7.1 the matter giving rise to the intended protest action;
 - 3.7.2 the process followed and the manner in which the matter has been considered in Nedlac for purposes of section 77(1)(c); and
 - 3.7.3 the outcome of the consideration.
- 3.8 Upon finalisation of the written Report by the Committee, subject to Clause 5 below, the Executive Director must forward the said report to the parties concerned.
- 3.9 The Committee may consider the notice as having been considered subject to the circumstances listed under clause 3 of the Code of Good Practice issued in terms of Section 203 of the Labour Relations Act, 66 of 1995
- 3.10 The Committee may consider the notice as not having been considered subject to the circumstances listed under clause 4 of the Code of Good Practice issued in terms of Section 203 of the Labour Relations Act, 66 of 1995
4. Appointing a panellist to facilitate the consideration of a notice
 - 4.1 Subsequent to a decision by the Committee that the matter is of a socio-economic nature (see clause 2.6), and if requested by either one or more of the referring parties or one or more of the responding parties, the Committee must by consensus, appoint a member of the panel appointed in terms of clause 1.4 to facilitate the consideration of the notice unless the Committee unanimously agreed not to appoint a panellist.
 - 4.2 The referring party must attach a written request for the appointment of a panellist to its section 77(1)(b) referral notice should it elect to apply for a panellist

4.3 The responding party must submit its request for the appointment of a panellist within 3 (three) calendar days of receipt of the notice of the first meeting.

4.4 One or more of the referring parties and the responding parties may agree by consensus, during or subsequent to their first meeting that a panellist should be appointed.

4.5 The panellist –

4.5.1 must convene meetings of the parties to consider the matter giving rise to the intended protest action;

4.5.1 must attempt to assist the parties to resolve the matters in the notice;

4.5.3 must not later than 45 (forty five) days after the notice being served on Nedlac or at the conclusion of such longer or shorter period as the parties may agree, make a written report to the Committee;

4.5.4 may in exceptional circumstances:

a) extend the total period available for consideration of the matter in Nedlac by an additional 2 (two) weeks (resulting in an effective period of 60 (sixty) days from the date of the notice); or

b) subject to budgetary considerations, request the approval of the Committee to extend the total period available for consideration of the matter in Nedlac beyond 60 (sixty) days of the date of notice, or

- c) reduce the total period available for consideration of the matter in Nedlac by a shortened period of 2 (two) weeks (resulting in an effective period of 30 (thirty) days from the date of the notice).

4.6 The Panellist must in the Report referred to in 4.5.3, set out:

- 4.6.1 the matter giving rise to the intended protest action;
- 4.6.2 the process followed and the manner in which the matter has been considered in Nedlac for purposes of section 77(1) (c); and
- 4.6.3 the outcome of the consideration.

4.7 The Report mentioned in clause 4.6 must be produced by the Panellist within 5 (five) days of the conclusion of any of the processes set out in Clause 3 of the Code of Good Practice issued in terms of Section 203 of the Labour Relations Act, 66 of 1995.

4.8 Upon receipt of the written Report of the Panellist, the Executive Director must forward the said report to all members of the Committee as well as to the parties concerned.

5. Procedure to finalise the Report

Should the Committee (in terms of clause 3.7) or the Panellist (in terms of clause 4.7) fail to produce the Report within the prescribed time frames, the Executive Director shall produce such Report within 5 days after expiry of the prescribed timeframes.

6. Quorum and non-attendance of parties

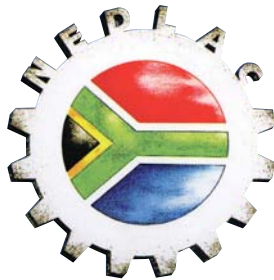
6.1 A Committee meeting convened to consider a notice in terms of this Procedure is quorate and may consider the notice if should any (3) three of the 4 (four) constituencies are present. However a

quorum not be present at the scheduled meeting, an adjourned meeting shall take place within 3 (three) working days of the scheduled meeting, unless the Committee unanimously agrees to another date. Those present at the adjourned meeting will constitute a quorum.

- 6.2 If none of the referring parties or none of the responding parties as listed in the section 77(1)(b) notice attend any scheduled meeting to consider the notice after being duly notified, another meeting should be convened within 3 (three) working days of the failed meeting. Should any party, other than the referring party, fail to attend the subsequent meeting, the Committee or a panellist appointed in terms of clause 4 above, may proceed to consider the matter as if the absent party/ies were present. Notwithstanding the above, the Committee may agree to proceed with any scheduled meeting irrespective of whether any of the cited parties are present or not.

7. Section 77(1) (d) notice

- 7.1 Once the matter giving rise to the intended protest action has been considered in accordance with section 77(1)(c), a referring party that wishes to proceed with the protest action, must serve a notice on Nedlac in terms of section 77(1)(d) of its intention to proceed with the protest action.
- 7.2 When Nedlac receives a notice contemplated in section 77(1) (d), the Executive Director, after satisfying himself that the notice complies with the provisions of the Act, must forward the notice immediately to the Committee, and all the responding parties listed in the section 77(1) (b) notice.
- 7.3 Should any responding party intend to dispute the validity of a section 77(1) (d) notice, it shall forthwith advise the Executive Director of Nedlac who shall in turn advise the Committee thereof.
- 7.4 Should the notice not comply with the provisions of the Act, the referring party must amend its notice to ensure such compliance before proceeding with protest action.



**NEDLAC PROTOCOLS &
FOUNDING DOCUMENTS**

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