

MEDIA STATEMENT

08 December 2021

Business Unity SA on mandatory vaccination declaratory order

BUSA notes the statement made by the Minister of Employment and Labour, Minister Thulas Nxesi, at the NEDLAC Annual Summit on 7th December 2021. The Minister said government supports BUSA going to the Constitutional Court to get a declaratory order. We must clarify that we have not, at any time, indicated we will be approaching the Constitutional Court for a declaratory order.

The correct position is that BUSA indicated we will consult our legal advisors about the possibility of applying to the High Court for a declaratory order to provide additional legal certainty to back up the OHS guidelines already in place. We are in the process of doing this but will not be able to put in an application in January 2022, after senior counsel is satisfied that we have the necessary case to apply for a declaratory order. Our advocate and junior counsel are, in the meantime, preparing the necessary affidavits.

We must also be clear that we have taken the view that the current OHS guidelines enable employers to put into place mechanisms to enable vaccination of all staff to meet their responsibility of ensuring a safe workplace for all their staff. This is being undertaken within the confines of the guidelines and we are seeing incredibly positive responses from all staff in firms that have applied the OHS guidelines. Discovery has indicated that staff vaccinations have risen from barely one fifth to over 94% in the three months since they announced plans to make jobs compulsory from 1 January 2022. We have seen comparable results in other firms. This is exactly the type of behaviour we need to encourage, and we urge more employers to follow suit.

We reiterate our consistent mantra that the most effective weapon against the virus is vaccination and adherence to non-medical health protocols. The science is clear that vaccinated people will not get seriously ill if they contract the virus. Vaccinating is also a necessary element to manage the virus and avoid a harder lockdown. It is thus the responsible thing to do, from a health and economic point of view, to vaccinate!

ENDS

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