

REPORT OF INVESTIGATIONS BY THE ESSENTIAL SERVICE COMMITTEE  
IN TERMS OF SECTION 70(2)(a) READ WITH SECTION 71 OF THE  
LABOUR RELATIONS ACT 66 OF 1995 TO DETERMINE WHETHER FIRE  
FIGHTING IS AN ESSENTIAL SERVICE

## BACKGROUND

Section 20(1)(a) of the Public Service Labour Relations Act of 1994 listed fire fighting and the services which support it as essential services. In terms of section 46(1)(a) and (b) of the Labour Relations Act, No.28 of 1956, fire extinguishing provided by any local authority or any employer within the area of a local authority was an essential service.

In terms of items 24 and 25 respectively of the Regulations No. R1734 of 01 November 1996 fire fighting and the services which support it were deemed to be designated as essential services for a period of six (6) months from 11 November 1996. This period was extended to ten (10) months by Regulation R654 of 09 May 1997. Items 24 (2) and 25(2) as amended allow the committee to supplant the services deemed to be designated as essential services with its designations made in terms of Section 71(8) of the Labour Relations Act of 1995.

## ARRANGEMENTS

Notice of the investigation was published in Government Gazette No. R2094 on 20 December 1996. On 4 May 1997 and 16 May 1997 notice of the hearings was published in "The Sunday Times" and "The Weekly Mail" respectively. In addition, interested parties received notice of the hearing on or about 19 May 1997.

The hearing was held on 3 to 5 June 1997 in room number 321, 3rd Floor, CCMA House, 20 Anderson Street, Johannesburg.

## **REPRESENTATIONS**

Written representations were received from several local authorities predominantly for the Cape and Kwazulu Natal.

## **PROFILE OF FIRE FIGHTING**

### **Emergency functions**

Fire fighters protect the public against the danger of losing their lives and property. They are geared to respond to fire and other disasters in an emergency. Their duties include connecting hose lines to hydrants, operating pumps, positioning ladders, administering emergency medical aid, assisting ambulance services which provide emergency medical treatment, ventilating smoke-filled areas, operating equipment, salvaging the contents of buildings, assisting in recovery from disasters such as floods and accidents. Fire fighters also operate a variety of specialist fire fighting vehicles such as hydraulic platforms, hydraulic turntable ladders, foam tenders and tankers. Rescue services of varying descriptions include high angle rescues and water and motor vehicle rescues. They control and clean up oil spills and other hazardous chemical spillage particularly on roads and other public places.

### **Fire Safety Functions**

The fire safety functions of the fire fighting department include fire prevention

activity such as inspecting buildings, perusing building plans to ensure compliance with Part T of the National Building Regulations (Fire Protection), checking on fire escapes and fire doors, the storage of flammable material, inspecting pipes, hoses and other fire apparatus to ensure that they are in good working order. Safety activities also have an enforcement dimension: fire departments are required to enforce the Fire Brigade Services Act, the National Building Regulations, as well as local authority bylaws regarding fire safety. Fire fighters also perform a public relations and education function about fire prevention and safety measures. They often speak to school assemblies and civic groups. They may sometimes be required to testify in criminal and civil proceedings in court about the causes of fire and the resultant death or damage.

### **Training and education**

Fire fighters also need to undergo classroom training, to be able to clean and maintain their equipment, conduct practice drills, participate in physical fitness activity, prepare written reports on fire incidents and keep abreast of technological development practices and policies in the field.

The entry requirements into the fire fighting job market are low. A physically fit eighteen year old with a high school education can be appointed on passing a written test, a physical fitness evaluation and satisfying internationally accepted medical standards. Initial training lasts for several weeks. The trainee is provided on the job training which covers the attainment of a breathing apparatus qualification, a Hazmat technician qualification, and an appliance operator/driver qualification as well as ancillary courses such as diving and high angle rescue courses.

Technikons offer a three year Diploma in Fire Fighting technology and a National Higher Diploma in Fire Technology. Further qualification includes undertaking examinations of the South African Emergency Services Institute or the Institution of Fire Engineers based in the United Kingdom.

Although the entry requirements are low, experienced and competent fire fighters are not easily replaced. The nature of the occupation is hazardous. Fire fighters are exposed to the dangers of buildings collapsing, trees falling down, the risks of climbing high buildings, to flames, smoke, strong winds and to poisonous, flammable and explosive gases and chemicals. They are also vulnerable to biological hazards such as tuberculosis, HIV or Hepatitis B through occupational exposure.

Many establishments such as parks boards and plantations provide their own fire fighting services. No one argued that private fire fighting services should be distinguished from the public utility. The committee accordingly makes no such distinction in its designation.

## **INTERNATIONAL AND FOREIGN LAW**

The ILO (ILCCR and Committee of Experts on the Application of the Conventions and Recommendations (CEACR)) had to consider the dispute between the Government of Japan and the General Council of Trade Unions of Japan (SOHYO), the All-Prefectural Municipal Workers Union (JICHIRO) and the Japanese Trade Union Confederation (JTUC-RENGO) about the right of fire fighters to organise.

The Committee re-iterated that it did not consider the functions of fire fighters to be of such a nature as to warrant their exclusion from the right to organise

under Article 9 of Convention No. 87. In the Committee's opinion, it was not in conformity with the Convention to deny the right to organise to any category of worker other than the armed forces and the police. However, the Committee emphasised that the right to organise did not necessarily imply the right to strike and that fire fighting services must be considered as an essential service in the strict sense of the term in which the right to strike may be prohibited. (CEACR: Individual Observation concerning Convention No. 87, Freedom of Association and Protection of the Right to Organise, 1948 Japan Published: 1989; 1991, 1993)

Clause 105 of the Labour Code of Quebec provides that fire fighters do not have the right to strike and are not subject to the provisions regarding the maintenance of minimum services. The Essential Services Council of Quebec may, however, intervene through its remedial powers. Municipal employees are also required to make available the equipment and tools necessary to ensure the maintenance of minimum services including the material necessary for the repair of fire vehicles. (Mme Madeleine Lemieux, former Chairperson of the Essential Services Council, Quebec)

Idaho and Vermont have allowed fire fighters the right to strike. However, their right-to-strike statutes provide for interdicts if the strikes endanger the health, safety or welfare of the public. Illinois, Ohio, Oregon and Pennsylvania prohibit strikes by public safety employees who include fire fighters. Alaska's bargaining law prohibits strikes by fire fighters who may be enjoined; compulsory arbitration to resolve negotiating disputes with their unions is provided. (Peter Feuille: "Strikes and Essential Services in the United States" published in "Strikes in Essential Services" edited by Jean Bernier page 108 & 119)

In Britain although fire brigades fall within the ambit of local authorities overall responsibility for the service rests with the Home Secretary. No special


legislation restricts the freedom to take industrial action. In 1978 a nine-week national strike took place over a pay dispute. The Government used troops to operate old fashioned fire engines to provide a basic fire fighting service which could not match the level of sophistication of the normal service. ("The Right to Strike and the Law in Britain, with Special Reference to Workers in Essential Services" by B. Simpson (March 1993)).

## DESIGNATION

The committee has decided to designate fire fighting services as an essential service.

DATED : 7 AUGUST 1997

MS DHAYA PILLAY (CHAIRPERSON) :



MR SUNIL NARIAN :



PROFESSOR KATE JOWELL :

