



# DETERMINATION

## ESSENTIAL SERVICES COMMITTEE

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Case Number: ES 20-20

ESC Panel: Joyce Nkopane, Zwe Ndlala, Makubalo Ndaba

Date of Award: 25 September 2020

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In the Section 71(9) investigation regarding the designation made by the ESC on 21 November 1997 and published under GN R1542 GG 18439

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### DETERMINATION

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#### Introduction

1. The Essential Services Committee ("the ESC"), by notice GN R1542 GG 18439, published on 21 November 1997 designated services required for key point computer systems as essential services (hereinafter referred to as "the 1997 designation").
2. Given the SAPS vs POPCRU (2011) 32 ILJ 1603 (CC), judgement which endorsed the concept of restrictive interpretation of essential services, the effects of the fourth industrial revolution and the associated developments and legislative changes, the ESC, as part of its continuous improvement indicated its intention to investigate and review the said designation.
3. The ESC advertised in Government Gazette No: 43614 on 10 July 2020 and the Sunday times of the 5<sup>th</sup> July 2020 that it intended conducting this investigation. The ESC also notified parties that it deemed would have an interest in the matter to attend the public hearings and provide oral and written submissions.

4. The public hearings were held face to face and virtually via Microsoft Teams on the following dates and times:-
- i) 18 August 2020 – CCMA National Office
  - ii) 19 August 2020- CCMA Durban Office
  - iii) 21 August 2020- CCMA Cape Town Office
  - iv) 24 August 2020 – CCMA Bloemfontein Office
  - v) 28 August 2020- CCMA Port. Elizabeth Office
5. The Committee did not receive any written submission or any intention from the parties to make oral submissions. In the scheduled hearings there was no attendance and no one showed interest in the said investigation.
6. The ESC further considered the various pieces of legislation that may have an impact on the key point computer systems, and in the absence of any information from the role players it was very difficult for the committee to determine if there was a need or any justification to interfere with the designation that was made in 1997.

#### Determination

7. The ESC makes the following determination:

- (i) The ESC designation declaring the following computer services provided or supported by the Central Computer Service of the Department of State Expenditure are designated as essential services:
  - a) The Persal system;
  - b) the social pension system;
  - c) the hospital systems; and
  - d) the flood control system

is not varied and /or reviewed.

- (ii) The ESC designation in relation to the above service/s published in GN R1542 GG 18439 is confirmed.



Signature:

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Chairperson :

Joyce Nkopane

Sector:

ESC Deputy Chairperson