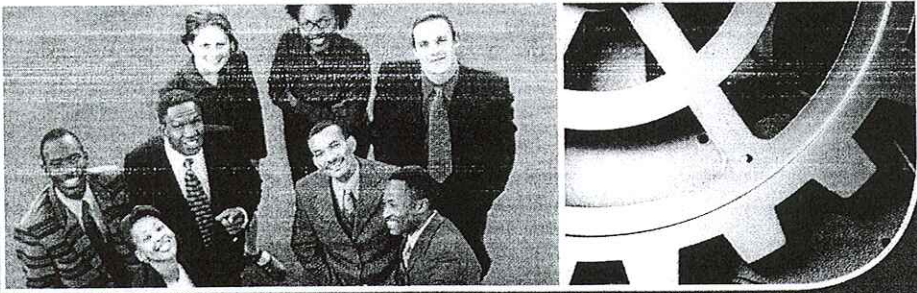



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**DEPARTMENT OF LABOUR**

**EMPLOYMENT SERVICES BILL, 2012**



 **labour**  
Department  
Labour  
REPUBLIC OF SOUTH AFRICA

**Objectives of the Establishment of the ES**

1. To repeal provision in Skills Development Act relating to employment services and Productivity SA;
2. To give legal framework for the functioning of a repositioned public employment service;
3. To provide legal basis for establishment and functioning of Productivity SA & Protected Employment Enterprises.

## Definitions – Section 1

- **Definitions are established to ensure :**
  - ✓ Comprehensive use of words such as foreign nationals, changing words such as licensed and license to registration and register and Board to refer to Employment Services Board.
  - ✓ To clarify that persons who provides advice or counseling should not have to register as a PEA.
- **Status: Agreed**

## Purpose of the Act (Section 2)

- **Sections 2 (1) (d), (e), (h), (i) & section 2 (2) (c), (d), (e), (f) are established to :**
  - ✓ Improve employment prospects of work-seekers and in particular vulnerable work- seekers.
  - ✓ Improve employment and re-employment prospects of employees facing retrenchments.
  - ✓ Promote partnership in general between Government and private employment agencies as promoted in ILO Conventions.
- **Status: Agreed**

### Interpretation (Section 3)

➤ **Section 3 (b), (c)** is established to:

- ✓ Provide for the interpretation of this Act to give effect to the Bill of Rights and ILO Conventions.

**Status:** Agreed

### Public Employment Services (Section 5)

➤ **Section 5** is established to:

- ✓ Provide for functions that the Public Employment Services must provide to South African citizens free of charge such as matching work-seekers with available work opportunities, registering work-seekers and registering job vacancies and other placement opportunities

**Status:** Agreed

### **Promotion of Employment of Youth and other Vulnerable work-seekers (Section 6 (1))**

➤ **Section 6(1) dealing with promotion of employment of youth and other vulnerable work-seekers is established to ensure that:**

- ✓ The Minister may, after consulting establish work schemes or measures for the purposes of enabling youth and other unemployment persons to enter employment, remain in employment or be placed in opportunities for self-employment.

**Status: Disagreement, Government & Labour seeks that NEDLAC be consulted while Business seeks that the ES Board be consulted.**

### **Job Retention and Enterprises in distress (Section 7(1))**

➤ **Section 7(1) is established to ensure that :**

- ✓ The Minister may, after consulting establish schemes to minimise the retrenchment of employees who are employed by employers in enterprises that are in distress:

**Status: Disagreement, Government & Labour seeks that NEDLAC be consulted while Business seeks that the ES Board be consulted.**

### **Employment of Foreign Nationals (Section 8)**

➤ **Section 8 is established to:**

- ✓ Enable the Minister in consultation with the Employment Services Board to make regulations to enable and regulate the employment of foreign nationals.

**Status: Agreed**

### **Reporting on vacancies and filing of positions (Section 10 (2))**

➤ **Section 10 (2) is established to:**

- ✓ Provide for the reporting and registering of existing or new vacancies by employers with the Public Employment Services.

**Status: Disagreement, Business seeks an addition to clarify that wording should have regard to the administrative requirements placed on employers.**

## Employment Information(Section 11)

➤ Section 11 is established to ensure that:

- ✓ The Department may develop and operate an employment information system for monitoring, evaluation research and the analysis of trends.

**Status:** Agreed

- ✓ NB: All reference to '**employment information**' have also been removed in sections 11 (1) (f) & 11 (2), as it is now covered in the introduction to the section
- ✓ Information from training and education institutions in section 12 has also been deleted.

**Status:** Agreed

## Financing of Public Employment Services (Section 12)

➤ Section 12 is renumbered and aimed to provide:

- ✓ Sources of funding that could be utilised to mobilise resources to create employment, to promote re-integration of retrenched or workers who lost their employment as a result of injuries or illness and to preserve employment.

**Status:** Agreed

### **Private Employment Services(Section 13)**

➤ **Section 13 (1) to 13 (8) is established to:**

- ✓ Provide for the registration and licensing of any person or body who wants to operate as a private employment agency and the consequences for operating a business without a license.

➤ **Status: Agreed**

### **Prohibited Acts (Sections 14)**

➤ **Sections 14 (1) (a) to (c) are established to:**

- ✓ provide for prohibitive acts that Private Employment Agencies may not do

**Status: Agreed**

### **Charging of fees by Private Employment Agencies(Sections 15)**

- **Sections 15** dealing with charging of fees by private employment agencies is established to :
- ✓ Prohibit Private Employment Services from charging work seekers any fees for services rendered

**Status:** Agreed, Government to comment on Business suggestion that clarification be provided as to what is meant by services and categories in the explanatory memorandum.

### **Retention of information by Private Employment Agencies & Confidentiality of information collected (Sections 16 & 17)**

- **Sections 16 and 17** are established to:
- ✓ Provide for safeguarding of work seekers information and prohibits the abuse of such information

**Status:** Agreed



**Cancellation of registration of private employment agency  
and Review of decision of Registrar  
(Sections 18 and 19)**

- **Sections 18 and 19** are established to:
  - ✓ Provide powers and conditions under which the Registrar of Public Employment Services can withdraw Private Employment Agent license; and
  - ✓ Provide the appeal process in case of dissatisfaction with the Registrar's decision.

**Status: Agreed**

**Establishment of Employment Services Board  
(Section 20)**

- **Section 20** is established :
  - ✓ Provide for the establishment of the Employment Service Board.

**Status: Agreed**

### **Composition of Employment Services Board (Section 21)**

➤ **Section 21 is established to:**

- ✓ Provide for the composition of the Board, the nomination process and the constitution of the board to govern its business.

**Status: Agreed**

### **Functions of the Employment Services Board (Section 22)**

➤ **Section 22 is established to:**

- ✓ Provide for the advisory functions to the Minister that they must render and bodies that they can liaise with in order to fulfill their functions.

**Status: Agreed**

### **Secretariat of the Board and Remuneration and expenditure (Sections 24 and 25)**

➤ **Sections 24 and 25** are established to:

- ✓ Provide for the administrative support to be provided by the Department to assist the Board to fulfill its functions; and
- ✓ Provide the remuneration of Board members

**Status: Agreed**

### **Employment Growth and Productivity (Section 26 to 31)**

➤ **Sections 26 to 31** are established to:

- ✓ Provide for the establishment anew of Productivity South Africa established under the Skills Development Act of 1998 as amended to promote growth and productivity .
- ✓ Provide for the functions and composition of the Productivity South Africa Board, constitution and remuneration of the Board.

**Status: Agreed**

### **Promotion of protected work for persons with disabilities (Sections 32 & 34)**

➤ **Sections 33 to 39 are established to:**

- ✓ Promote protected work for persons with disabilities.

**Status: Agreed**

### **Jurisdiction of Labour Court (section 35)**

➤ **Section 35 is established to:**

- ✓ Provide for the Labour Court to have overall jurisdiction in so far as settling disputes that may arise in the implementation of this Act.

**Status: Agreed**

## Monitoring and Enforcement (Section 36)

- Section 36 is established to:
  - ✓ Provide for the monitoring and enforcement of the provisions of the Act in accordance with Schedule two of the Basic Conditions of Employment Act.

**Status: Agreed**

## Offences (Section 37)

- Section 37 is established to:
  - ✓ Provide for contraventions of the Act and applicable penalties

**Status: Agreed**