



20 August 2009

Attention: Ms A Kakaza
C/o Ms. L.E. Yengeni
Chairperson of Portfolio Committee on Labour
P.O. Box 15
Parliament
Cape Town
8000

BY EMAIL: akakaza@parliament.gov.za

Dear Madam,

RE: LABOUR BROKING SUBMISSIONS

The public request for interested parties to make written submissions in the above regard has reference.

Who is APSO?

The Association of Personnel Service Organisations (APSO) was founded in 1977 and has, for the past 30 years, continued to strive for higher levels of professionalism within the labour recruitment industry

Although APSO membership is voluntary, for the past three decades, all of our members have subscribed to strict self-regulatory practices including:

- Full compliance with all applicable registrations including Department of Labour (DOL), South African Revenue Services (SARS), Bargaining Councils etc.
- Adherence to a comprehensive Code of Ethical & Professional Practice that regulates all aspects of the labour recruitment industry and incorporates aspects of Convention 181 (ILO c181) of the International Labour Organisation (ILO). APSO is a proud member of the Institute of Ethics South Africa which vetted our Code.
- Professional certification of individual recruitment practitioners in the industry to ensure minimum levels of competence, knowledge and high ethical standards to be provided to clients, candidates and assignees.(APSO is the driving force behind the establishment of the Employment Services Certification Institute – ESCI).
- Continuous engagement with key stakeholders including DOL, unions, SSETA and others to ensure that members are compliant with all appropriate legislation and best practices to achieve the goal of uplifting the image of the labour recruitment industry.
- Regular interaction with global industry bodies to ensure that global best practice standards are achieved within the South African context. (APSO is a member of the International Confederation of Private Employment Agencies – CIETT – and currently holds the seat for Africa and the Near East).

Who does APSO represent?

- APSO currently has a membership base of more than 860 individual companies representing more than 1000 offices across South Africa. (APSO membership increases, on average by 20% each year).
- The scope of membership is vast and incorporates the large corporate players (3 are listed on the JSE) with a high majority of APSO members being Small Medium Enterprises (SME).
- APSO drives transformation. We are proud that our two biggest corporate members are number 1 and 4 on the “Most Empowered Companies” list and APSO has embarked on education campaigns to assist our SME members to achieve at least a Level 4 BBBEE rating.
- APSO members operate across the broad spectrum of the labour recruitment industry – permanent placements, executive search, ad response handling, temporary employment services, and outsourcing.
- APSO is run by a full time National Office team incorporating operational management and a secretariat that supports elected committees of volunteers (members) that sit at both regional and national levels to ensure that the strategic & operational objectives of the association are achieved.
- APSO is a fully constituted Section 21 company that holds regular Annual General Meetings (AGM) to ensure good corporate governance.

APSO's role

APSO recognizes the importance of flexibility in the functioning of labour markets and the role played by private employment agencies in a well-functioning labour market.

We actively support:

- Professionalisation (through certification & continuous professional development)
- Regulation and registration of all players within the labour recruitment industry
- Social Security & Retirement Reform
- Decent Work Country Programme (DWCP)
- Engagement with Labour / Government and Business

APSO has actively participated in the NEDLAC process since inception and directly engaged with DOL in the drafting of the amendments of the LRA and the BCEA. We remain committed to engaging with labour and government in the ongoing debate on protection for vulnerable employees.

1. *Legislative Adequacy*

APSO is confident that sufficient legislation exists within our industry and that current attempts to alter this legislation will merely serve to over-regulate the compliant (our members) and not to achieve the goal of bringing the non-compliant within the ropes.

APSO fully supports the initiative towards greater regulation but believes that this should be achieved through better enforcement, co-regulation and not by creating debilitating legislation that could become a stumbling block for direct foreign investment and job creation. The President, Jacob Zuma, has reiterated the need to create a "one-stop investment shop" in South Africa (Sunday Times 16.08.09) and we fully support his call for greater encouragement of foreign investment and the resultant job creation, but we caution that creating additional barriers to labour flexibility could put a real dent in these plans.

2. *Enforcement*

APSO enforces compliance amongst our membership base in the following ways:

- All members are required to meet stringent entry criteria before being assigned membership – this includes appropriate registrations with DOL, Bargaining Councils, SARS etc. All potential members are visited to ensure compliance and that the required operational standards are in place.
- All members are bound by the APSO Code of Ethical & Professional Practice and the CAPES Code of Conduct. Members' Terms & Conditions of business as well as their operational practices must align with the conditions laid down in these codes.
- APSO investigates all complaints lodged by clients, candidates, assignees and other parties to ensure continued compliance with statute and our Codes. Over the past three decades, the APSO Ethics Committee has investigated and adjudicated on many hundreds of cases.

APSO has worked tirelessly to promote compliance by educating corporate South Africa (business) and today, many companies make APSO membership (and the associated self-regulatory enforcement of compliance) a pre-requisite for doing business.

Currently APSO only has the right to expel a labour recruitment company (who is found guilty of non-compliant or unethical conduct) from the association but this does not stop the non-compliant companies from practising within the industry. **It is our belief that the establishment of a formal public-private partnership might assist in greater and more effective enforcement of the existing laws and eliminate the need to create additional burdensome legislation.**

APSO has worked closely with the Confederation of Associations in the Private Employment Sector (CAPES) to develop a co-regulation model that could assist in more effectively policing the existing legislation within our industry. **The Private Employment Agencies Board has been formally proposed by CAPES at NEDLAC and continues to be our recommendation in terms of more effectively registering and regulating all parties operating within the industry.**

3. Supporting organizational rights

APSO supports the principle of freedom of association and this right has been entrenched within our Code of Ethical & Professional Practice. Our members belong, where appropriate, to Bargaining Councils and engage with unions.

APSO fully supports the initiative to protect workers, particularly those who are most vulnerable. APSO regularly publishes articles, aimed at educating work seekers on their rights which appear in various newspapers across South Africa. Representatives of the association regularly participate in radio discussions and in conferences and events to educate workers on their rights in order to uplift the image of the labour recruitment industry and to promote compliance.

APSO actively engages with all parties (Government, Labour and Business) in achieving the goals of Decent Work as espoused by the ILO. For the past several years, APSO has invited members of labour and government to participate in panel discussions at our National Staffing Conferences. This serves to develop relationships and educate our members. APSO has also, through CAPES, engaged with unions like FEDUSA to look at developing a Memorandum of Understanding.

APSO driving professionalism

APSO has over the past 3 decades developed capacity for self-regulation.

Alliances and Affiliations

APSO belongs to a variety of bodies both locally and globally and uses these alliances and affiliations to drive professionalism in South Africa.

1. The **Confederation of Associations in the Private Employment Sector** (CAPES) was established with APSO as one of its founding members. APSO believes strongly in bringing all associations within the employment services sector together to ensure compliance and greater levels of professionalism. We aim to roll out the successes achieved through APSO's self-regulation, throughout the industry, primarily via the proposed co-regulation body, the Private Employment Agencies Board.
2. **CIETT** (International Federation of Private Employment Agencies). APSO has been a member since the late 1970s and currently holds the seat of Vice President for the Africa & Near East regions. CIETT plays a vital role in representing the industry at the ILO. CIETT recognizes the good work that APSO does in driving compliance & professionalism and has thrice, in the past 25 years, awarded APSO the right to host the International CIETT conference – 1980, 1997 and 2005.
3. **South African Chamber of Commerce & Industry** (SACCI). APSO is an active member of the chamber and several APSO representatives sit on committees including the Tax Committee and Small Business chamber.
4. **Business Unity South Africa** (BUSA). APSO has a number of representatives sitting on a variety of committees within the BUSA structure.
5. **Institute of Ethics of South Africa**. The APSO Code of Ethical & Professional Practice has come to be the benchmark for best practice within the labour recruitment industry. The value of the code, and the principles it espouses, are evidenced by the increasing number of corporate companies (clients) who choose to deal only with APSO member agencies who are bound by the code. As a member of the Institute, APSO's code has been vetted and the ethics procedures approved as being within International ethics best practice standards.

Education & Development

APSO has, as one of its core objectives, the training and development of our member companies and their individual staff members. Throughout its history, APSO has actively promoted the ongoing education of members to ensure continued compliance and greater levels of professional service to be given to clients, candidates and assignees.

All APSO members' staff are required, within 6 months, to undergo training and write an entrance exam to ensure that they have the knowledge and compliance required to practice compliantly and ethically. This exam previously fell within

the ambit of the Institute of Personnel Service Consultants (IPSC) which was established by APSO more than two decades ago.

In keeping within international best practice and the changing scope of the industry, APSO is the driving force behind the creation of the Employment Services Certification Institute (ESCI) which will replace the IPSC as the certification body for the entire industry, not just APSO members.

The role of ESCI is to professionalise the labour recruitment industry, and its individual practitioners, to ensure effective self-regulation, drive continuous professional development and to ensure fair and decent treatment for candidates and assignees. ESCI has been established on global best practice standards and will ensure that non- or under-qualified practitioners will not be tolerated by clients, candidates, assignees and other stakeholders.

Public Private Partnerships

1. APSO continues to work closely with the **Department Of Labour** (DOL) to assist in monitoring non-compliant agencies and to ensure that our membership registers according to current legislation. This collaborative relationship has both a top-down and bottom-up approach with APSO engaging with local DOL offices in respect to registrations & inspections as well as more high level engagements regarding potential regulations and public-private partnerships. Most recently APSO has been actively engaging the DOL Employment Services department in respect to the draft regulations for Private Employment Agencies (PrEA).
2. **South African Revenue Services** (SARS). APSO played a role in drafting sections of the Income Tax Act that served to close the gap on tax evasion. More recently, APSO engaged with SARS in an effort to educate our members, and their clients, about the changes to the IRP30 process.
3. APSO participated as a representative in the **European Union Project 9 Steering Committee** that served to strategically plan the SETA structure. This participation served to ensure that TES assignees had access to Skills Development.
4. The majority of APSO members belong to the **Services SETA**. The industry is a significant contributor in terms of skills development levies and has been responsible for the facilitation of more than 4000 individual learnerships – this equates to more than 5% of the total National Skills Development Strategy 1 (NSDS) target of 80 000 as set by the Minister of Labour. APSO representatives actively participate in the management structures of the SSETA boards, both regionally and nationally. An APSO representative has served as either the Labour Recruitment Chamber Board Chairperson or Vice-Chairperson for the past several years.
5. APSO has a representative who sits on the **National Skills Authority** (NSA).

Ensuring benefits for Temporary Employment Services (TES) assignees

APSO is actively working towards the education of members and the drive towards implementing the principles of decent work. Members are educated to ensure that their TES assignees receive their statutory benefits. Many of our corporate members already provide benefits above the stipulated statutory benefits but APSO, through its members of CAPES, is actively seeking ways to ensure that this becomes a financial and administratively viable option for our SME members too.

Communication & Education

APSO has a proactive and extensive communication & education strategy. Members and other stakeholders are kept informed in a variety of ways, including:

- **APSOgram**. APSO publishes a free quarterly glossy magazine that focuses on educating and informing our members to ensure that they maintain high levels of compliance and professional service.
- **APSO website**. The APSO website is regularly updated and contains vast resources to assist our members, particularly those SME, in running their businesses compliantly. The website also contains sections for clients and work seekers and serves to inform and educate them about their rights. Visit www.apso.co.za
- **INFOgram**. APSO regularly communicates with our members via electronic formats to maintain their currency of knowledge and to ensure that they're abreast of the latest developments within the industry.

- **Regular media coverage.** APSO has developed good relationships with various media partners to ensure that our message of compliant, ethical and professional practices within the industry reach a wide audience. Articles are aimed at educating clients, candidates and work seekers about the industry and their rights.

Conclusion

APSO is hopeful that the many self-regulation successes achieved by the association over the past thirty years will be evidence that the labour recruitment industry can be effectively regulated given the appropriate mechanism of public-private partnership.

We further hope that our submission and the evidence of the high standards of compliance and enforcement required by APSO of our members, will prove that comments made recently in the media, such as “temporary assignees are abused by private brokers who are making lots of money”, “labour brokers are an obstacle to our (the unions) aims of creating decent work” and that labour brokering is an “exploitative labour practice”, are not a true reflection of the entire industry.

APSO acknowledges that there are non-complaint parties operating within the industry but stresses that with the (relatively simple) introduction of a co-regulatory body, such as the proposed Private Employment Agencies Board, the great work done by APSO can be extended to cover all parties operating in the labour recruitment industry and ensure that any non-complaint parties are brought into line or eliminated from operating.

Contacts

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