



Newsflash

It has come to our attention that certain inaccurate information is currently in circulation to say that the amendments to the labour laws, in particular those affecting temporary employment services (TES), will be in effect from 1 January 2014. **ANASA would like to confirm that this is not true.**

To assist members, and your clients, please find herewith an update on the current state of affairs and the expected implications of the changes on those offering (and using) flexible labour solutions.

PROGRESS ON LABOUR LAW AMENDMENTS

ANASA have communicated to members earlier last month that the Basic Conditions of Employment, Labour Relations, Employment Equity Act, and the Employment Services Bill have been amended and are in the final stages of promulgation.

The full process has been completed in respect of presentations to the Parliamentary Portfolio Committee and National Council of Provinces (NCOP). However due to some changes proposed by the NCOP two of the bills will need to be re-submitted to the National Assembly for ratification before onward distribution to the State President for signature and promulgation.

As the National Assembly has already gone on recess for 2013 and will only resume at the end of January, it is unlikely that this final step will be concluded before February 2014. Following a recent CAPES (Confederation Associations of the Private Employment Sector) meeting it is estimated that the four bills will be presented to the President as a pack and signed into law prior to the national elections.

These changes will impact all employers, not only those who are, or make use of, TES. Several provisions relating to the management of atypical employees, including concepts such as equal pay for work of equal value, will have an impact on workplaces.

ANASA will continue to update members and clients alike. You are advised to take caution when taking advice from consultants who have not been directly involved in the process and who may be misinformed.

IMPACT OF EMPLOYMENT SERVICES BILL ON PRIVATE EMPLOYMENT OFFICES (PEO)

The Employment Services Bill will make it mandatory for all companies operating as Private Employment Offices (PEO) or Temporary Employment Services to register with the Department

of Labour or their nominated regulatory authority. The specifics in respect of licensing requirements will only be published, as part of the regulations, once the Bill has been signed into law by the President.

Through the Department of Labour and CAPES, ANASA strives to keep member agencies informed on how to ensure compliance going forward. In the interim, members are required to maintain their compliance standards and are encouraged to liaise with ANASA for any assistance.

IMPACT ON TEMPORARY EMPLOYMENT SERVICES

Members are reminded that the bills in no way stops Temporary Employment Services/Labour Brokers from operating nor from providing flexible labour solutions to their clients, including beyond the stipulated 3-month period from which time additional joint and several liability extends to protect vulnerable workers.

After three months on the client site, temporary employees who earn below the stipulated BCEA threshold, currently R193 805, receive additional protection under the Labour Relations Act in terms of joint and several liability between the client (end-user) and the TES. In a nutshell this means that should the temp be unfairly dismissed, they would have the right to take the TES, the client, or both, to the CCMA.

Joint and several liability has always been applicable (for temp employees) in regards to the BCEA and the payment of minimum wages and employment benefits in line with collective agreements, sectoral determinations and basic conditions.

We advise that you share this with your clients so that they can be comforted by the fact that they will continue to be able to make use of your services. If you, or any of your clients, have any specific questions, please feel free to address these with us info@anasa.org.za