

Date of Meeting:

19 Mar 2013

Chairperson:

Mr M Nchabeleng (ANC)

Documents handed out:

Department of Labour briefing on the Employment Services Bill [awaited]

Relevant Document**Employment Services Bill [B38-2012]****Audio recording of the meeting:****PC Labour: Workshop on Employment Equity Amendment Bill [B31-2012]] &****Employment Services Bill [B38-2012]****Summary:**

The briefing by the Department of Labour (DoL) on the Employment Services Bill indicated that the Bill sought to repeal provisions in the Skills Development Act relating to employment services and Productivity SA. It gave a legal framework for the functioning of a repositioned public employment service, and provided a legal basis for the functioning of Productivity SA and Protected Employment Enterprises. The Bill made provision for free public employment services, the registration of private employment agencies, and required that an advisory Employment Services Board be established. The briefing emphasised the importance of International Labour Organisation (ILO) Conventions for the Bill.

In discussion, there was a question about the registration of temporary employment services. A Member remarked that the position of protected employment enterprises was uncertain. The DoL replied that disability had provided the basis for productivity in the first place. Disabled persons were specialised with regard to the nature of their work, but their working conditions and regulations were mainstream. A member asked about the relation of the ILO Conventions to the Bill. The DoL replied that South Africa was an ILO member. Although not all Conventions were ratified, the spirit of the Conventions was incorporated. Intentions and best practices were looked at. A representative of business at NEDLAC noted that there was interest in how the Labour Relations Act handled labour brokering. There had to be consensus about a regulation regime for labour brokers.

Minutes:**Briefing by Department of Labour (DoL) on the Employment Services Bill, 2012**

Mr Sam Morotoba, DoL Deputy Director-General: Public Employment Services, DoL, noted that he had briefed the Committee on the Bill on 12 March 2013, and that the current briefing would be a recap of that. The NEDLAC process for the Bill commenced in January 2011 and concluded in July 2012. The Bill sought to repeal provisions in the Skills Development Act relating to employment services and Productivity SA. It provided a legal framework for the functioning of a repositioned public employment service. It provided a legal basis for the functioning of Productivity SA and Protected Employment Enterprises.

The Bill provided for free public employment services, including employment of foreign nationals. It provided for registration for private employment agencies, and defined prohibited acts. The Bill required that an advisory Employment Services Board be established. Productivity SA would be re-established, sheltered factories re-established and their mandate clarified. There was provision for the rehabilitation of disabled persons through employment interventions. Sheltered employment factories had first been established in 1947, to deal with post-traumatic cases. There was a lack of legislation for the factories. In debates about sheltered employment it had been argued that it came down to the confinement of the disabled, but there was potential for factories to grow, also in government.

In the NEDLAC process, various departments and sectors made contributions. Labour had emphasised the need for the establishment of a national employment scheme. Labour was also concerned about the registration of temporary employment agencies. Business asked that business representatives be included in the Employment Services Board. The disability sector had been concerned about confinement in sheltered employment, and had a problem with the integration of factories. The Treasury had suggested that the Bill be aligned with assurance and compensation funds, to fund employment services. Home Affairs showed concern with the alignment and coordination of migration management.

Mr Morotoba stressed the significance of International Labour Organisation (ILO) Conventions for the Bill.

Discussion

Mr S Motau (DA) remarked that the historical lesson to be learnt about disabled workers was that there could not be too much focus on the disability, but if there was too little attention to their challenges, the disabled fell through the cracks. Special schools were said to isolate children, but when disabled children were mainstreamed, that also came in for criticism. Emphasis had to be on enterprise. There was a lot of potential in that area.

Mr Thembinkosi Mkalipi, Chief Director: Labour Relations, DoL, replied that the focus had to be on productivity, not necessarily on mainstreaming. It was people's disability that had created the basis for productivity in the first place. Disabled people were employed under the same conditions as everyone else. They were treated like other workers. They were not competing with private workers. They were specialised as far as their work was concerned, but part of the mainstream when it came to regulations.

Adv A Alberts (FF+) asked how ILO Conventions were related to the Bill.

Mr Morotoba replied that the ILO identified topics of relevance. Through debate, some issues were elevated to Conventions. There were legal mechanisms to enforce them. Some Conventions were not ratified by South Africa, but as a member of the ILO, government, labour and business looked at the spirit of the Conventions. South Africa did not have to implement everything. Intentions and best practices were looked at. All labour legislation referred to the Conventions.

Mr Chris Todd, representing NEDLAC (Business), noted that there had been great consensus about the Employment Services Bill during the NEDLAC process.

Mr A Williams (ANC) asked about Chapter three of the Bill, which dealt with Private Employment Agencies (PEAs). He predicted that the Section 198 amendments might not come out in the way intended.

Mr Mkalipi responded that the legislation ensured that employment services had to register. It was linked to the Labour Relations Act. If banned, they did not need to register. The issue was whether an employment service had to register if it only operated for one day.

Mr Todd referred to the Labour Relations Act. At NEDLAC there was interest in how labour brokering was handled in the Act. It had to be regulated through registration, to establish a regime for labour brokers.

Ms Prakashnee Govender, Parliamentary Liaison Officer, Cosatu, commented that the trade union was satisfied with the Bill.

The Chairperson adjourned the meeting.