

Amendment bills to address labour broking

PRETORIA: Cabinet has approved two bills for submission to Parliament that deal with the phenomenon of labour broking and child labour, among others.

Cabinet spokesperson Jimmy Manyi said that Cabinet had approved the submission of the amendment bill for the Labour Relations Act (LRA) and the Basic Conditions of Employment Act (BCEA) to Parliament.

Manyi was addressing the media on Thursday following Tuesday's Cabinet meeting.

The bills will be considered by the Portfolio Committee on Labour before being submitted to the National Assembly and the National Council of Provinces respectively for adoption.

Elaborating on the bills, Labour Minister Mildred Oliphant said the current amendments had their origins in the growing "informalisation" or "casualisation" of work that had become a feature of the South African labour market over the past decade.

Amendments to the LRA and the BCEA have a major focus on addressing the phenomenon of labour broking.

"One of the issues that we are focusing on... is that workers are continually being used as casual workers. Responding to that, we are saying temporary work will be limited to six months.

"When it comes to the fixed term contract - that should be guided on when that project is going to be finalised. Therefore, those workers will be taken as fixed term contract workers. The workers must be paid equally, irrespective of whether that worker is a temporary worker or a permanent worker," the minister said.

With regards to the Labour Relations Amendment Bill, temporary employment is limited to genuine temporary work that does not exceed six months.

There is also protection for those employed in temporary work and who earn below an earnings threshold (set at the BCEA threshold of R172 000 per annum).

Unequal treatment of those employed in temporary work who earn below the threshold is prohibited.

The amendments introduce the regulation of fixed term contracts for those who earn below the threshold.

An employee may be employed on a fixed term contract for longer than six months only if the work is of limited duration or the employer can demonstrate a justifiable reason for fixing the term of the contract.

An employee who is employed for longer than six months is deemed to be employed for an indefinite period and must be treated no less favourably than a permanent employee doing the same or similar work.

The provisions relating to fixed term contracts do not apply to employers with less than 10 employees, nor does it apply to employers with less than 50 employees and whose businesses have been in operation for less than two years.

With regards to the BCEA, provisions dealing with the prohibition and regulation of child labour are to be extended to cover all work by children and not only work by children as employees.

These amendments will align the BCEA with South Africa's international law obligations in terms of the International Labour Organisation Convention (No. 182) on the Worst Forms of Child Labour.

The maximum term of imprisonment for an offence involving child labour or forced labour will also be increased from three to six years.

Other amendments propose that the minister could set increases to actual wages instead of minimum wages for vulnerable workers in sectoral determinations.

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