

**PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA  
NOTICE 708 OF 2020**

**Ms Liezl Van der Merwe, MP**

**NOTICE OF INTENTION TO INTRODUCE A PRIVATE MEMBER'S BILL  
AND INVITATION FOR COMMENT ON THE DRAFT BILL, NAMELY THE  
EMPLOYMENT SERVICES AMENDMENT BILL, 2021**

Ms Liezl Van der Merwe, MP acting in accordance with section 73(2) of the Constitution of the Republic of South Africa, 1996, intends to introduce the Employment Services Amendment Bill (“draft Bill”), in Parliament. An explanatory summary of the Bill is hereby published in accordance with Rule 276(1)(c) of the Rules of the National Assembly (9<sup>th</sup> Edition).

The high rate of unemployed South Africans and the high representation of foreign nationals employed in lower occupation levels, particularly in the unskilled sector is a critical concern. With due regard to the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000), there should be deliberate attempts by the State to control the increasing preference by certain sectors in the workforce to employ foreign nationals over South African citizens, without justification on the basis of skills. Therefore, it is imperative to regulate the employment of foreign nationals in South Africa, in order to stem the narrative that the ratio of job opportunities between foreign nationals and South African citizens are skewed towards foreign nationals.

The draft Bill aims to amend the Employment Services Act, 2014 (Act No 4 of 2014), with the intention to regulate the recruitment of foreign nationals in certain economic sectors and to strengthen the current regulatory framework regarding the recruitment of foreign nationals in South Africa. The draft Bill requires that when recruiting potential employees, an employer must confirm that there are no suitable South African citizens that can be employed in that position, prior to recruiting a foreign national. The Bill further proposes that the Minister must publish a notice that provides for the identification of certain sectors in the workforce for the purpose of ensuring that

suitable qualified South African citizens are equitably represented in those sectors and furthermore that the Minister must set numerical targets for the identified economic sectors.

The draft Bill therefore seeks to provide the following:

- (a) New definitions for “Commission”, “employer”, “Employment Equity Act”, “numerical target”, “permanent resident”, “sector”, “Statistics South Africa”, “Standard Industrial Classification Code”, and “work visa”, which replaces the term “work permit” to align the Act with the Immigration Act (Act No. 3 of 2002);
- (b) setting out the measures that must be met prior to the employment of a foreign national within South Africa, instead of deferring such measures to regulations;
- (c) allowing an employer to make use of public employment services or private employment agencies to assist the employer to recruit suitable South Africans;
- (d) requiring that an employer must prepare a skills transfer plan in respect of any position in which a foreign national is employed;
- (e) empowering the Minister to, after consulting the Employment Service Board, make regulations to facilitate the employment of foreign nationals.
- (f) requiring the Minister to publish a notice in the Government Gazette identifying sectors and setting numerical targets for those sectors, to ensure equitable representation;

Interested parties and institutions are invited to submit written representations on the proposed content of the draft Bill to the Speaker of the National Assembly by the 11 February 2021. Representations can be delivered to the Speaker, New Assembly Building, Parliament Street, Cape Town; mailed to the Speaker, P O Box 15 Cape Town 8000, or emailed to [speaker@parliament.gov.za](mailto:speaker@parliament.gov.za) and copied to [research1@ifp.co.za](mailto:research1@ifp.co.za).

Copies of the Employment Services Amendment Bill may, after introduction, be obtained from:  
Party name: Inkatha Freedom Party  
M106, Marks Building, Parliament  
Attention: Ms L van der Merwe