

**MEDIA BRIEFING ON THE STATUS OF LABOUR BROKERS AND THE  
NEDLAC NEGOTIATIONS ON LABOUR LAW AMENDMENTS – LABOUR  
MINISTER, MILDRED OLIPHANT**

**19 JULY 2011**

**Industrial Action**

With regards to the wave of industrial actions that arise from the annual round of collective bargaining I wish to reiterate my position that I urge parties to meaningfully engage and endeavour to reach agreement on wages and conditions of employment.

I also wish to bring to their attention that these public sectors are critical to the economy of the country and, therefore, prolonging the strike is not in the public interest, hence the parties must talk and talk until an amicable agreement is reached. The parties should strive at all times to build on the strength of the country's collective bargaining system. Where settlements are not achievable, workers of course have the right to strike and to protest peacefully as embodied in the Constitution of South Africa.

I, however, want to again warn that violent behaviour during strikes, for example damage to property and intimidation, is totally not acceptable. It undermines the system of collective bargaining in this country and this violent behaviour serves only to bring legitimate negotiations into question. I, therefore, strongly appeal to trade unions and workers to conduct their strikes in a peaceful manner.

I also wish to advise the parties to consider the services of the Commission for Conciliation, Mediation and Arbitration when and where negotiators experience difficulties in resolving their disputes.

The Commission for Conciliation Mediation and Arbitration (CCMA) has been involved in supporting parties through facilitation in some sectors and they remain available to assist.

I also want to congratulate those unions and employers that have concluded their negotiations

### **Labour brokers**

A central objective of the current round of amendments to labour legislation is to deal with the increase in labour broking and, in particular, with the abuses associated with the practice and the way in which it deprives many workers of basic protections under labour law.

This is a key challenge that faces us at the moment. It is a challenge that will involve expanding the scope of protection beyond those who are engaged in formal employment relationships. And it is a challenge that will require shifting power to ensure that workers are better able to access opportunities for work in conditions of freedom, equity, security and human dignity. These are conditions that lie at the heart of the decent work agenda and we have to begin addressing these more effectively.

Dealing with labour broking will require additions to labour legislation to provide added protection for employees on fixed term contracts, part-time and temporary employees. It will not be desirable to rely on self-regulation or codes of conduct to deal with the kind of abuses that have occurred.

We are aware that there are many who prefer to work on fixed term contracts. As government, our intention is not to limit the right of persons to work in the way that they choose, but rather to ensure that workers on fixed term contracts have

the same rights as other workers and that it is clear who the employer is when such a person works for a client.

Equally, the businesses that make use of fixed term contract workers will have to accept their responsibility as the employer of such a worker. They cannot engage in unfair dismissals through contract termination.

Legal amendments to regulate fixed term contracts, temporary work, part-time work and the temporary employment agency sector is a major part of the reforms that we seek to introduce. These are not the only changes, however.

The bills that were published in December 2010, contain amendments to dispute resolution processes, to collective bargaining and to organizational rights.

### **Progress in the NEDLAC negotiations**

The NEDLAC team that is engaging on the amendments has decided to discuss changes under a number of themes and to broaden the scope of amendments further. The themes include, inter alia:

- Atypical work
- Dispute resolution
- Compliance and enforcement
- Access to employment
- Equity
- Collective bargaining

As government, we have agreed with the social partners to re-open discussion on the key issues that require legal amendments before proceeding with legal drafting.

I am sure that we all want certainty about the new legal framework as soon as possible and time is, therefore, of the essence. But while speed in finalizing the process is important, we would want a final product that enjoys the support of organized business and organized labour.

In addition to enjoying the support of our social partners, our labour legislation must meet two additional criteria:

- i. Firstly, labour statutes should be simple. Labour law guides the courts, employers and employees as well as labour organizations. It has wide application in daily practice in workplaces throughout the country and it should be understandable.
- ii. Secondly, our labour laws need to be coherent. At a time when we are amending three statutes and introducing a fourth, it is imperative that we have coherence between statutes. Conflicting policy considerations will defeat the social objective of the law.

I am pleased to report that the work in NEDLAC is progressing well and there is a meeting of minds on a number of issues. New legal drafting has started on the following issues:

- Fixed term contracts;
- Temporary employment agencies;
- Part-time work, and;
- Probation.

While there is progress in NEDLAC, it will be important to respect the process of social dialogue. Although it may take time, I am confident that we will have a better set of amendments to our labour legislation once the NEDLAC process has been concluded.

As we are aware of the urgency attached to these amendments, three meetings are already in the pipeline at Nedlac to continue with the discussions. There's a meeting scheduled for this Thursday the 21<sup>st</sup> and two other meetings on the 2<sup>nd</sup> and the 16<sup>th</sup> next month (August).

Lastly, I want to call on the Labour Federations to constantly brief their affiliates about the progress being made at Nedlac, especially with regards to the labour broking phenomenon. The organised labour is represented at Nedlac and is one of the strategic partners.

THANK YOU