

**THE HISTORY OF LABOUR HIRE IN NAMIBIA: A LESSON FOR SOUTH AFRICA****A Botes\*****SUMMARY**

Labour hire, the practice of hiring out employees to clients by a labour broker, has been a part of Namibia's history since the early 1900s in the form of the contract labour system. This form of employment was characterized by inhumanity and unfair labour practices. These employees were subjected to harsh working conditions, inhumane living conditions and influx control. The contract labour system continued until 1977, when it was abolished by the *General Law Amendment Proclamation* of 1977. It was during the 1990s that the hiring out of employees returned in the form of labour hire. It continued in this form without being regulated until it was banned in the *Namibian Labour Act* of 2007. In 2009 Africa Personnel Services, Namibia's largest labour broker, brought a case before the court against the Namibian Government in an attempt to have the ban nullified on grounds of unconstitutionality. It argued that the ban infringed on its right to carry on any trade or business of its choice as contained in section 21(1)(j) of the *Constitution of the Republic of Namibia*. APS triumphed. It was not until April 2012 that new legislation was promulgated in order to officially lift the ban and to regulate labour hire in its current form. This new legislation came into force in August 2012. Various very important provisions are contained in the *Labour Amendment Act 2* of 2012 concerning labour brokers. Part IV of the *Employment Services Act 8* of 2011, containing provisions for the regulation of labour brokers as juristic persons *per se*, was also introduced and came into force in September 2012. The aim of this note is to serve as a lesson to the South African government as to what could happen if labour brokers continue without legislation properly addressing the

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pitfalls associated with labour brokers. Also, it could serve as an example as to how the employees of a labour broker should be protected. In this regard the history of labour hire and the current strides in Namibia cannot be ignored.

**KEYWORDS:** Labour hire; Namibia; temporary employees; exploitation of contract labour system; SWANLA; Namibian Labour Act; labour hire banned; regulation of Africa Personnel Services; Labour Amendment Act; Employment Services Act; labour brokers; South Africa; precarious; collective bargaining; triangular employment relationship; duties of employer; true employment relationship; job security; automatic termination; proposed amendments; Labour Relations Act