



19 November 2007

**The Director-General: Health
C/O Director: Human Resources Development
Private Bag
X828
Pretoria
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**RE: SUBMISSIONS – DRAFT REGULATIONS DEFINING THE SCOPE OF THE
PROFESSION OF PSYCHOLOGY (R969)**

The purpose of this correspondence is to record our submissions in regard to the above regulations.

1. ABOUT CAPES

The Confederation of Associations in the Private Employment Sector (CAPES) is the single unified representative voice for the Private Employment Agency industry. It represents the collective interests of more than 800 Private Employment Agencies who employ in excess of 400 000 employees across all industries and sectors on any given day. The majority of our members are SMME's and as such they are materially contribute towards addressing the evils of unemployment and poverty.

CAPES is in turn a member of Business Unity South Africa (BUSA) and the Chief Operations Officer of CAPES represents CAPES' interests at NEDLAC via this membership of BUSA.

2. SUBMISSIONS

2.1 The impact of these regulations would be significant given the nature and extent of the Private Employment Agency industry in South Africa. The core business of this industry is the effective selection and management of human resources in the form of both candidates seeking employment as well as employees who have been placed by Temporary Employment Services (TES).



2.2 Hundreds of thousands of candidates applying for employment via Private Employment Agencies are screened and assessed for employment each day. Most of these assessments, tests and screening methodologies do not have “therapeutic-type” applications nor do they dictate or require that the recruitment practitioners administering them be professionally registered with the Board. Instead, they are applications that are focused solely on matching personality-types, skills, values and related factors against given job specification. There is a very real chance that an interview, test, questionnaire or other method of assessment could be included within the scope of these regulations. We believe that the consequences of this would be very serious in that, inter alia:

- the cost of conducting business as Private Employment Agencies would be dramatically increased, putting many companies out of business;
- the socio-economic contributions of the Private Employment Agency industry to initiatives such as ASGISA and JIPSA would be materially undermined;
- the quality of recruitment and selection practices would be grossly undermined as companies seek less formal and costly means of assessment.

2.3 In addition, the impact of these regulations on existing labour statutes needs to be referred to NEDLAC for engagement between the social partners. Specifically, the following areas of law would have to be considered in relation to these regulations:

- the Employment Equity Act, under both Chapter 2 (which addresses Psychological Testing) as well as Chapter 3 (which addresses the identification of Suitably Qualified People – refer section 20(3) and (5)); we submit that these regulations may in fact undermine progress in respect of affirmative action as the options to assess the ability of designated persons to achieve the competencies required within a reasonable time become constrained given the contents of the regulations;
- the Labour Relations Act and specifically schedule 8 thereof which addresses Incapacity of Employees due to Ill Health and/ or Poor Performance; in both these cases, counselling, coaching and evaluation is the order of the day.



- 2.4 The regulations also are a cause for concern in that they contravene the spirit and intent of the Competitions statute in that they dictate the use of registered psychologists which is not only a form of market regulation but also is unjustifiable in most instances listed in the regulations.
- 2.5 CAPES submits that the failure of the regulations to actually define the basis on which the “notice” listing the tests etc that will require the involvement of a registered psychologist (refer 2(f)) detracts from our ability to make reasonable submissions and hence undermines the Promotion of Administrative Justice Act prescripts.

We sincerely hope that these submissions will provide an idea of the negative impact that such regulations would have if adopted in the current form. We make ourselves available for engagement in this regard should you require such input.

Please contact the writer on 082 457 0000 should you have any queries.

Yours sincerely

John Botha
Chief Operations Officer: CAPES