



REPUBLIC OF NAMIBIA

MINISTRY OF LABOUR, INDUSTRIAL RELATIONS AND EMPLOYMENT CREATION

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RESPONSE BY HONOURABLE ERKKI NGHIMTINA, MINISTER OF LABOUR, INDUSTRIAL RELATIONS AND EMPLOYMENT CREATION ON QUESTIONS RAISED BY HONOURABLE JAN J VAN WYK (UPM)

Question 1

How many employees from diamond manufacturing companies were dismissed/retrrenched or have resigned over the past seven years?

Answer: This question is a bit unclear for three reasons: -

- a) it does not clarify what type of dismissals are these? Whether through disciplinary hearings or unfair dismissals,
- b) for the resignation, the Ministry does not keep such information as it is not required by law, and
- c) retrenchments, many employees lost their jobs due to economic situation and operational requirements, e.g. at I.L.D Diamonds, etc.

Question 2

How many understudies were successfully trained from 2007 to 2014 replace Foreigners?

Answer: Section 19 (3) of the Affirmative Action (Employment), 29 of 1998 reads as follows:

“...a relevant employer shall, with due regard to the purpose of this Act, train a Namibian citizen as the understudy of every non-Namibian citizen employed by him or her or it.”

It is clear from the section quoted above that the Affirmative Action Law requires the employer to arrange and to ensure the transfer of skills from the Non-Namibian employee to the Namibian understudy.

The emphasis of the provision of the station is on skills transfer and does not provide for the mandatory replacement of the foreigners as the Honourable Van Wyk implies in his question. The Office of the Employment Equity Commissioner issued Understudy Guidelines to employers which require employers to design understudy training programs with training objectives and timelines for every understudy so appointed and are obliged by law to report annually on progress made by each understudy.

I would like to assure Honourable Van Wyk that all employers do comply with the provision of the Act that requires them to appoint and train understudies. I am also informed that employers who do not comply, they ~~are~~ are dealt with by the Employment Equity Commission in terms of the relevant provisions of the law.

Question 3

How many Foreigners are currently employed in the diamond polishing industry?

Answer: The Employment Equity Commission reported that relevant employers in the diamond and polishing industry reported, through their affirmative action reports, to have employed 62 Non-Namibian employees across the industry

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Question 4

How many site-holders have submitted their AA Reports over the past three years, and what measures are you going to take against those that have failed to submit such reports and who are they?

Answer: The Affirmative Action (Employment) Act, 29 of the 1998, provides for the Minister of Labour, Industrial Relations and Employment Creation to identify employers who should be obligated to implement affirmative action and such employers are referred to in the Act as “relevant employers”. Currently, a relevant employer is an employer who employs 25 or more employees. The Act requires relevant employers to submit their first affirmative action report within 18 months preceding the date on which they were identified as such and further reports or progress reports have to be submitted at yearly intervals thereafter.

Relevant employers have therefore, to submit progress affirmative action reports to the Employment Equity Commission annually to report on progress made towards equity in their respective workplaces. Honourable Van Wyk’s question is specifically about “site-holders”. Are such “site-holders” relevant employers in terms of the Affirmative Action (Employment) Act? It would be good if Honourable Van Wyk gives names of the site-holders to enable the Employment Equity Commission to determine as to whether they are relevant employers in terms of the Act or not and whether they are compliant.

Honourable Speaker, I tabled the Annual Report of the Employment Equity Commission in this august House early this year and I trust that Honourable Van Wyk read it as it contains information relating to the question he has asked.

The Affirmative Action (Employment) Act is very clear about employers who fail to comply with the requirements of the law and such employers who fail to comply with the law are dealt with in terms of the relevant provisions of the Act. The Police Officer who is assigned to the Office of the Employment Equity Commission to deal with affirmative action related offences has a long list of employers who appeared before the courts and convicted. I believe, Honourable Speaker, Honourable Van Wyk does not expect me as Minister of Labour, Industrial Relations and Employment Creation to read court records in this august House.

Question 5

What measures will you take to ensure that employees are not dismissed by diamond manufacturing companies without the correct procedure?

Answer: The Labour Act is very clear when it comes to any dismissal of employees without following the correct procedures. Should Honourable van Wyk knows anyone who was dismissed unprocedurally please advise him/her to approach the Labour Commissioner in accordance with the established procedures and requirements.

Question 6

Laurelton Reign Diamonds (Pty) Ltd being the last company reported in the local newspapers that has allegedly retrenched employees without following the procedures. What will the Ministry do to come to the aid of these employees and or to assist them to get justice?

Answer: As Honourable van Wyk has said allegedly the company retrenched employees without following procedures. The Ministry has no record of such unprocedural retrenchment at that company.

Again, as I indicated that the Labour Act has clear provisions on these matters. Further, if there are employees who feel or believe that they were retrenched unprocedurally, let them approach their trade unions for assistance or refer a labour dispute to the Labour Commissioner for adjudication in such disputes.

Question 7

How does the “retrenchment” package of foreigners relate to that of their Namibian counterparts?

Answer: The Labour Act does not make provisions for different retrenchment packages between Namibian and foreign employees at all.

All employees who are legally working in Namibia are treated equally in ^{the eyes} ~~the eyes~~ of our labour law. However, the improved retrenchment packages can be achieved through negotiations between an employer(s) and his/her employees or their union representatives.

Question 8

What measures will the Ministry put in place to prevent mining companies from transferring pension funds to offshore accounts without taking care of their former employees, keeping in mind the unjust that was done to employees of the former TCL mines?

Answer: This question is misdirected. The Ministry of Labour, Industrial Relations & Employment Creation has no mandate on pension funds administration at all.

I therefore would like to advice Hon. Van Wyk to redirect his question to the Ministry of Finance and/or NAMFISA.

I trust that I have satisfactorily responded to Honourable Van Wyk's questions.

I thank you.