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EMPLOYMENT

The Protected Disclosures Amendment Act, No 5 of 2017

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On 31 July 2017 the President of the Republic of South Africa assented to the Protected Disclosures Amendment Act 5 of 2017 ("Amendment Act"). The Amendment Act commenced on 2 August 2017.

The Amendment Act extends the application of the Act to any person who works or worked for the State or another person or who in any manner assists or assisted in carrying on or conducting the business of an employer or client as an independent contractor, consultant, agent or person rendering services to a client while being employed by a temporary employment service; to regulate joint liability of employers and their clients; to introduce a duty to inform employees or workers who have disclosed information regarding unlawful or irregular conduct; to provide for immunity against civil and criminal liability flowing from a disclosure of information which shows or tends to show that a criminal offence has been committed, is being committed or is reasonably likely to be committed; to create an offence for the disclosure of false information; and to provide for matters connected therewith.

For example; the amendment provides for the insertions of a new section which provides as follows:

(3A) Where an employer, under the express or implied authority or with the knowledge of a client, subjects an employee or a worker to an occupational detriment, both the employer and client are jointly and severally liable.

Therefore, if a temporary employer service provider (i.e. employer) subjects an employee to disciplinary action (i.e. an occupation detriment) then both the employer **and** the TES client will be jointly and severally liable.

Employers would be well advised to review their service level agreements with their TES's to ensure the TES indemnifies the client (employer) against the abovementioned liability.

Should you require any further information regarding the provisions of Amendment Act, and their impact in the context of employment relations, please do not hesitate to contact us.

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