

**“ALL YOU EVER WANTED TO KNOW ABOUT HOW TO SURVIVE THE INSPECTION BY THE DEPARTMENT OF LABOUR, BUT WERE AFRAID TO ASK”**

As we are all aware, the Department of Labour has the right to enter any business premises and request any information to which employment law relates. They have, by virtue of Sections 65 and 66 of the Basic Conditions of Employment Act, powers of entry as well as to question and inspect.

For the most part, this is done by phone or by written request however they are increasingly performing site audits and if you're applying (or renewing) your Private Employment Agency certificate, they must complete a site inspection.

This is often quite disconcerting as they seem to ask a great deal of questions and want proof of compliance to some regulations – but, they are required to for the certificate (and for you to avoid fines for non-compliance). After all, compliance with the legislation of the country is part and parcel of being a legitimate business.

What we have managed to obtain is some generic information regarding the type of information and documentation that the inspector will want to see. Currently there are several changes underway, including the impending promulgation of the Employment Services Act, resulting in a shift from simple registration as a PEA to the status of license to operate.

If you are applying for, or renewing of your PEA certificate, then it would be worthwhile to take the time to make up a “pack” of the documents that are regularly requested. It will definitely assist in making the site inspection as short and painless as possible, and avoid the chances of the inspector having to return another day, thereby delaying the issuing of your PEA certificate.

Don't forget, whilst this is the combined input based on our engagements with Department of Labour and the feedback from members who've recently undergone this process, there is absolutely no guarantee that these are the **only** documents or questions that may be asked! The Department of Labour has the right to request anything relating to compliance with employment law!

So here you are, with best wishes from APSO.....

# CERTIFICATE OF REGISTRATION AS A PRIVATE EMPLOYMENT OFFICE

## Document 1: A company letterhead

The inspector/s will wish to see a document that has the name of the company, the physical address, postal address, telephone and fax numbers as well as the email address and this information can usually be given in the a company letterhead.

## Document 2: Founding documents

They will want to establish what kind of legal entity the PEA is – a (Pty) Ltd, Close Corporation etc. They will require proof, so your next document will be your registration certificate / certificate to commence business / founding statement / articles and memorandum of association / CK certificate / section 21 company & trust deed. There are instances where you will have more than one of the above – put them all in the pack.

## Document/s 3: Registrations & Good Standing

These will be the various registration certificates and proofs of payment, namely:

- VAT registration
- Skills Development Levy registration
- Income Tax registration (and tax clearance certificate)
- APSO registration and certificate –let us state, at this stage, that there is **no** legislative reason whatsoever why a company should NOT be issued with a PEA certificate even if you are not a member of APSO. It has been asked for by several inspectors, however.
- Proof of payment of COID and UIF
- Letter of good standing from COID

## Document 4: Utility Bill

A recent utility bill – electricity/water/rates/telephone etc.

## Document/s 5: BCEA compliance

Attendance register - there is even a sample of the way the department would prefer it done. This particular form is known as the BCEA 3 and it can be downloaded from the department's website.

Recent pay slips of both permanent and temporary staff.

Examples of contracts of employment for both permanent and temporary staff members.

And remember... a summary of the BCEA must be displayed in a prominent place where employees can see it.

## Document/s 6: EEA Compliance

Proof of submission of EE2 and 4 reports (if you a Designated Employer)

Copy of the EE 2 and 4 reports (if you a Designated Employer)

And again, a summary of the EEA must be displayed in a prominent place where staff can see it.

### **Document/s 7: OHSA Compliance**

There must be a copy of the act and the regulations available in the workplace

There must be a letter of appointment for the health and safety representative (only applicable if there are 20 or more people in the office)

There must be a first aid box – with at least the minimum requirements as stated in the general safety regulations

You may even be asked for your electrical compliance certificate and other safety related documents.

### **Questions relating to your Recruitment/Staffing Activities:**

Is your current PEA certificate displayed in reception? (in the case of renewals)

Do you have a sign displayed that states that “No fees are charged to candidates”?

Is there a proper database filing system? This can be manual or electronic but the Inspector will want to see that records are kept at least the required 3 year period and are safely stored/backed up.

Do you keep a record of every applicant that registers with your agency? This register should be kept in the form prescribed by the Department of Labour, to record demographic information, such as race, gender, disability status, occupational category and whether or not they were employed at the time of registration. This information will form the basis of your annual Manpower Report (due each January) to Department of Labour.

### **General Questions/Inspections:**

Are the premises properly ventilated?

Are there appropriate ablution facilities?

Are health and safety regulations in place i.e. are the fire escapes accessible, is there easy access to and from the building, are the fire extinguishers sufficient and properly serviced?