KPMG

GMS Flash Alert

Immigration

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South Africa – Employment Services Amendment Bill, 2026 Proposes Tighter Foreign-Worker Rules

The Employment Services Amendment Bill, 2026 (the "Bill"), has been introduced in South Africa's National Assembly as a proposed section 75 bill. The proposed legislation seeks to amend the Employment Services Act, 2014, by establishing a statutory framework governing labor migration and the employment of foreign nationals in South Africa.[1]

WHY THIS MATTERS

South Africa has introduced the Bill, which proposes significant changes to the regulation of foreign national employment. If enacted in its current form, the Bill would expand employer compliance obligations, introduce a framework for possible future foreign national employment quotas, and strengthen enforcement mechanisms and penalties. The Bill remains subject to the legislative process and may be amended before enactment.

Background

The Bill seeks to amend the Employment Services Act, 2014 to create a broader framework governing labour migration, align the Act with the Immigration Act and Refugees Act, and promote employment opportunities for South African citizens and permanent residents while facilitating the employment of foreign nationals where their skills are needed.

Proposed Changes

Enhanced Employer Compliance Obligations

The Bill proposes that employers seeking to employ foreign nationals would be required to:

- Verify that the individual is lawfully authorised to work in South Africa and authorised to perform the specific work for which they are employed.
- Maintain copies of visas, permits, and other documentation demonstrating the individual's right to work.

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- Satisfy themselves, in a manner that may be prescribed by future regulations, that suitable candidates already present in South Africa are not available before recruiting certain foreign nationals.

- Employ foreign nationals on terms and conditions that are not less favourable than those applicable to South African citizens.

Skills Transfer Requirements

The Bill would require employers to prepare skills transfer plans for positions occupied by foreign nationals, unless the Minister grants an exemption through a determination. The scope and operation of this requirement would depend on future regulations and ministerial determinations.

Potential Introduction of Foreign National Employment Quotas

The Bill would authorize the Minister of Employment and Labour, following consultation and a public participation process, to prescribe maximum quotas for the employment of foreign nationals in specified sectors, occupational categories, or geographic regions. The Bill does not itself establish quotas but creates a mechanism through which quotas may be introduced in the future. Small employers would generally be excluded, while employers requiring flexibility beyond prescribed quotas could apply for exemptions.

Expanded Regulatory and Enforcement Powers

The proposed amendments would expand the powers of labour inspectors to monitor and enforce compliance with the Employment Services Act and facilitate coordination with immigration authorities in respect of certain immigration-related enforcement activities.

Increased Penalties

The Bill proposes substantially higher penalties for non-compliance with foreign national employment requirements, including:

- Up to R100,000 for a first contravention;

- Up to R200,000 for a repeat contravention within three years; and

- The greater of R1,000,000 or 10 percent of annual turnover for multiple repeat contraventions.

Treatment of Refugees, Asylum Seekers and Permanent Residents

The Bill amends the definition of "foreign national" to exclude refugees, asylum seekers, and permanent residents. As a result, these individuals would fall outside the scope of the proposed foreign national employment framework, including any future quota regime established under the Bill.

Employer Considerations

Although the Bill is not yet law, employers that engage foreign nationals may wish to evaluate the potential impact of the proposed changes on workforce planning, recruitment practices, and compliance frameworks. Particular areas for review may include:

- Right-to-work verification procedures;

- Record-keeping processes;

- Recruitment practices and evidence of local candidate searches;

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- Workforce composition by nationality and occupation; and
- Potential skills transfer obligations.

Effective Date

The Bill has been introduced in Parliament but has not yet been enacted. The proposed amendments would come into effect on a date determined by the President and published in the Government Gazette following completion of the legislative process.

KPMG INSIGHTS

While the Bill remains subject to parliamentary consideration and possible amendment, it signals the government's intention to establish a more structured framework for the regulation of foreign national employment. If enacted in its current form, the Bill would significantly expand employer compliance obligations relating to foreign national employees, including improved right-to-work verification, possible labour market testing requirements, skills transfer obligations, expanded record-keeping requirements, ministerial quota powers, and increased penalties for non-compliance. Employers with foreign national workforces could continue to monitor legislative developments and assess the potential impact on future recruitment and workforce planning strategies.

If readers have any questions or concerns about the scope of the update, its application and potential impacts, and appropriate next steps, they should consult with their qualified immigration professional or a member of the GMS immigration team with KPMG in South Africa (see the Contacts section).

ENDNOTE:

1 Parliament of the Republic of South Africa, "Employment Services Amendment Bill [B 16—2026]," published on 29 May 2026.

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Contacts

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The information contained in this newsletter was submitted by the KPMG International member firm in South Africa.

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