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Labour broking
and outsourcing



A man wearing a yellow hard hat and a khaki shirt is looking towards the camera. He is standing in a construction site with wooden beams visible in the background. The lighting is dramatic, highlighting his face and the texture of his clothing.

Labour broking and outsourcing

The concepts of labour broking and outsourcing are often misinterpreted and are used interchangeably; however, there are a number of differences between the two. The key difference is the type of employment generated. Labour broking is more inclined towards temporary or casual employment. Outsourcing creates fixed-term or permanent employment, and employees are entitled to the benefits and full protection under the Labour Relations Act.

Labour broking versus outsourcing

The dissimilarities between outsourcing and labour broking have often been misinterpreted. This has primarily resulted in criticism of outsourcing by the public and various groups (labour unions) working for causes that promote fair labour practices. These groups are also opposed to labour broking on the grounds that it might lead to exploitation. Given the absence of a clear understanding of their functions, the need to understand the differences between the two models is very important to further establish the Business Process Outsourcing (BPO)/ Business Process Management (BPM) industry as a key enabler for economic growth in the country. Considering the economic impact of the BPO/BPM industry, the South African government has identified this sector as a key enabler for gross domestic product (GDP) growth.

Labour broking (also known as Temporary Employment Services/TES) is a practice in South Africa in which companies (the end users) employ a “casual” workforce through labour brokers, which are agencies that provide these workers for a short period of time. Labour broking may also be defined as a form of subcontracting, where definite services are procured from an outside supplier (i.e. labour brokers). The International Labour Organization (ILO) categorises subcontracting into job contracting (the contractor offers certain services or equipment) and labour-only contracting (only labourers are provided). Labour-only contracting is the dominant form of subcontracting in South Africa. It helps to boost the economy by creating employment and supports the end users by providing a supply of short-term labour. Labour broking in Namibia has been practised under the name “labour hire” since the 1990s.

Having been employed by labour brokers, “casual” workers often face discrimination and challenges, such as lower salaries than those employed by the end user and the inability to exercise their employment rights, as they are easily replaced. This is compounded by the fact that labour law does not prohibit the broker or the end user from identifying casual labourers as

independent contractors, implying that these labourers can be excluded from legislative labour protection.

This might also lead to unfair termination of employment by the end user or broker, without either being held liable.

The use of labour brokers by the South African Post Office (SAPO) can be considered an example of labour broking abuse. A large number of casual workers were employed by SAPO due to increasing delivery volumes. A permanent SAPO worker was paid R8 000 a month in 2011. In the same year, SAPO paid R4 000 per month to its labour broker for each casual worker; however, the labour broker only paid R2 000 of this income to the casual worker. The working conditions of these temporary workers were nowhere near that of permanent employees – casual employees were not given adequate wet-weather clothing and they were denied basic benefits, such as a tea and coffee allowance.

Despite a number of problems with this employment model and the challenges faced by labourers, labour broking is crucial to South Africa’s economy and overall employment structure. Labour broking has proven to be a mitigating factor for the country’s high unemployment figures. TES, which is considered to be a platform for first-time job seekers, is often associated with labourers with few skills; however, according to research published by Haroon Bhorat, director of the development policy research unit at the University of Cape Town, more than 50% of 784 434 workers who were employed by the TES sub-sector in 2014 were sales and service labourers, which indicates that they had reached a secondary education level. Furthermore, TES’s economic contribution cannot be overlooked. This sub-sector accounted for close to 1.3 million jobs out of an overall 2 million.

It is important to note that not all labour brokers abuse their temporary staff. The use of labour brokers remains a critical positive contributor for companies that require seasonal, large-scale, temporary staff or that run an event that demands short-term staff. Such seasonal and periodic employment offers financial relief to poverty-stricken youth, albeit temporary, without elevating recruitment and administration burdens for end users.

With the growing influence of outsourcing on the South African economy as a whole, a better understanding of the differences between outsourcing and labour broking will help to segregate the two employment practices.



Outsourcing

Outsourcing is quite different from labour broking. Outsourcing mostly creates permanent or longer-term, fixed contract employment based on the outsourcing period (usually three or five years), and hired workers are put on the outsourcing service provider's payroll in most cases. The service provider is bound by the country's labour legislation and is liable for terminating such employment in any unforeseen circumstances. Unlike TES, outsourcing service providers offer services that the end user would most likely be unable to perform themselves or would not be able to perform effectively due to a lack of skills. As these functions require specific skill sets, those hired by outsourcing service providers cannot be easily replaced.

The outsourcing sector is a key player in generating employment in the country. According to Business Process Enabling South Africa (BPeSA) – the national association for companies operating in the BPM sector, also known as BPO/Business Process Services (BPS) – the BPM sector employed approximately 215 000 workers in 2015. More than half (59.9%) of these jobs have been created in the last five years. The number of jobs catering to the international market increased by 23% in 2015, from 21 700 in 2014 to 26 700 the following year. Jobs in Cape Town alone accounted for 87% of this growth.

Moreover, the BPM sector has emerged as a sustainable source of employment, with over 90% of staff members being employed on longer fixed-term contracts, which is not the case with labour broking. This sector is very active in employing first-time job seekers. Close to 48% of staff in the sector are between 26 and 30 years of age, while close to 43% are 18 to 25 years old. This becomes prominent as the country faces a high unemployment rate, especially in the case of new graduates and first-time job seekers.

As per BPeSA, the BPM sector contributes R50 billion to the South African national annual GDP, which is much more than the contribution made by TES. According to McKinsey, in order to achieve expected growth from 1% of the global BPO market currently to 3% by 2030, a supply of 4 000 to 13 000 students is required on a yearly basis. To this end, the Monyetla Work Readiness Programme (a Department of Trade and Industry initiative) aims to train 18 000 youth and place the majority of them in the BPO sector.

South Africans even outsource services in their own private homes, such as gardening, because it is sometimes unaffordable or not cost-effective to purchase a lawn mower and other equipment that is used only once a week.

In most cases it is not the nature of the employment that is the issue, but rather the abuse by some organisations that creates the perception that labour broking and outsourcing are evil practices. It is this lack of knowledge that creates confusion and leads people to believe that the concepts are similar. In a country where over 60% of employable youth are unemployed, labour broking and outsourcing should remain part of the future within the ambit of labour that is already available.

The concepts of labour broking and outsourcing are different with respect to the type of employment, job security, treatment of workers and the required skill sets. Government initiatives to provide training and develop BPO-specific skills favour the creation of employment in the BPO sector.

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