



GLA

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THE TEMPORARY PROVISION OF WORKERS AND TEMPORARY WORK



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OUTLINE

The entry into force of Presidential Decree 272/11 of 26 October - which establishes the regulations for the Legal System for Temporary Provision of Workers and the Activity of Temporary Work Agencies - brings about the long-awaited regulation of article 32 of the General Employment Law (GEL). The GEL had already made provision for temporary employment contracts without, however, defining the requirements for the temporary provision of workers or even safeguarding the interests of those involved.

With the current regulations, only companies and cooperatives that have the corporate object of providing temporary workers may carry on this activity), and it can be concluded from an analysis of the Presidential Decree that the corporate object is exclusive in nature.

Carrying on this activity requires authorisation from the Ministry of Public Administration, Employment and Social Security. The applicant must meet these cumulative requirements: a) Suitability, b) technical, organisational and functional capacity and c) all payments due to the tax and social security authorities must be up to date.

CONTRACTS FOR PROVISION OF WORKERS AND TEMPORARY WORK

Both the temporary work contract between the temporary work agency (TWA) and the worker and the contract for provision of temporary work between the TWA and the user must be made in writing.

The legislation under analysis defines the circumstances in which contracts for the provision of temporary workers can be made. These are very similar to the circumstances as already established by the GEL in which a fixed-term employment contract can be made. These contracts are associated with the urgent and temporary needs of the user. Although it presents nothing new in respect of the grounds for the admissibility of fixed-terms employment contracts contained in the GEL, the legislator did include a new ground: the need for specialised labour.

The Presidential Decree makes no provision as to the duration of temporary employment contracts. It does, however, establish variable periods for the duration of contracts for the provision of temporary workers which depend on the reason for their existence. The maximum period is twenty-four months but there is an

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exception for contracts involving specialised labour where the period may be greater.

At the end of the contract for the provision of temporary work, the worker may not be substituted by another temporary worker to do the same work. Furthermore, if the first worker continues in the service of the user, he will be deemed to have a permanent contact with the user, and his obligations to the temporary work agency will come to an end as long as there is an agreement between the parties.

REGULARISATION OF EXISTING TEMPORARY WORK AGENCIES

Companies that carry on the activity of providing temporary workers outside the current formal requirements must regularise their situation within 180 days of the entry into force of the legislation on 26 October 2011.

After this, any agencies that do not have authorisation from Ministry of Public Administration, Employment and Social Security and a licence to carry on the activity are subject to the sanctions provided for in Decree 11/03 of 11 March.

This newsletter was prepared by a multidisciplinary team made up of Angolan lawyers from GLA – Gabinete Legal Angola and Portuguese lawyers from PLMJ. This team was brought together under an agreement for international cooperation and membership of PLMJ International Legal Network, in strict compliance with applicable rules of professional ethics.
