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Proposed amendments to the Employment Equity Act and what they mean for your business



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By **NADIA FRONEMAN** And **JUSTINE SHEAR**

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13 Sep 2021

Employment Equity is the principle, underpinned by legislation, in terms of which employers are obliged to ensure that suitably qualified individuals from designated groups (those individuals who were discriminated against in the past) not only have equal opportunities, but are equally represented in all occupational levels and categories in different workplaces.

In principle, goals were set whereby Employment Equity was to be achieved in the workplace, and it was up to individual employers to ensure that these goals were satisfied. Employers have not been coming to the party in this regard, resulting in the current [Employment Equity Bill](#) (“**the EE Bill**”) being expedited following Parliament’s recess.

Now that Parliament has resumed, the EE Bill is receiving a lot of attention, with the Department of Employment and Labour’s Equity Directorate hoping to implement and enforce the amendments to the [Employment Equity Act](#) No 55 (“the EEA”) of 1998, as set out in the EE Bill, in March 2022.

The EE Bill (which will result in amendments to the EEA) is aimed at:

- reducing the regulatory burden on small business;
- empowering the Employment and Labour Minister to regulate sector specific employment equity numbers; and
- promulgating section 53 of the EEA for issuing of Employment Equity Compliance Certificates.

The EE Bill seeks to eliminate all current employment equity plans by September 2022, and to ensure that all new plans align with the new five-year targets set by the Employment and Labour Minister. Essentially, the EE Bill sets to take the regulation of employment equity plans out of the hands of business and into the hands of the Employment and Labour Minister, given that it has been determined that ‘self-regulation’ by employers has not been effective.

The EE Bill is sector specific, meaning that the EEA will set sectoral numerical targets with which businesses will need to comply. Any numerical employment equity goals set by employers will need to comply with the sectoral targets, as determined by the Minister, applying to that employer.

Employers who fail to comply with the provisions of the Act including failing to prepare an employment equity plan that meets the required sectoral numerical target, face being fined. However, the EEA envisages that fines be imposed only after certain enforcement measures are adopted. Such enforcement measures include, inter alia, written undertakings and compliance orders.

We will now have to wait and see whether the Department of Employment can take the necessary measures not only to implement the provisions contained within the EE Bill, but to ensure that the practical measures contained therein are in fact complied with by employers throughout the nation.

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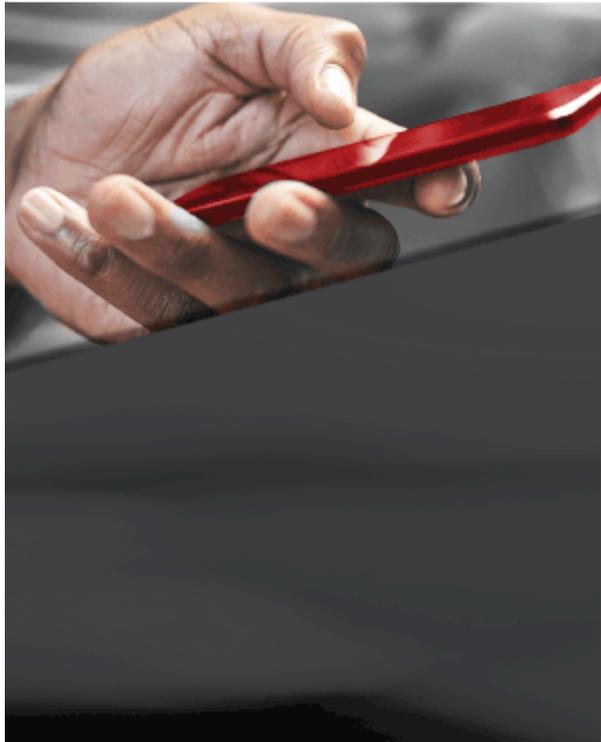
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