

EMPLOYMENT

Breaking News as the Minister of Employment and Labour publishes much anticipated Sectoral Targets and accompanying Regulations

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The Employment Equity Amendment Act No.4 of 2022 (“**EEAA**”) which came into operation on 1 January 2025, *inter alia*, empowered the Minister of Employment and Labour (“**the Minister**”) to set sectoral targets for specific, identified sectors/industries (“**Sectoral Targets**”) in terms of section 15A of the Employment Equity Act (“**the Act**”). Designated employers have been anticipating the publication of such Sectoral Targets.

As of 15 April 2025, the wait is over as the Minister has finally published not only the Sectoral Targets, but also, a new set of Employment Equity Regulations (“**2025 Regulations**”) which repeal the 2014 Employment Equity Regulations (“**2014 Regulations**”) and provide guidance to designated employers in relation to, *inter alia*, the Sectoral Targets.

Sectoral Targets

The Sectoral Targets have been established in relation to each of the 18 specified national economic sectors identified by the Minister, specifically -

- accommodation and food service activities;
- administrative and support activities;
- agriculture, forestry & fishing;
- arts, entertainment and recreation;
- construction;
- education;
- electricity, gas, steam and air condition supply;
- financial and insurance activities;
- human health and social work activities;
- information and communication;
- manufacturing;
- mining and quarrying;
- professional, scientific and technical activities;
- public administration and defence; compulsory social security;
- real estate activities;
- transportation and storage;
- water supply, sewerage, waste management and remediation activities; and
- wholesale and retail trade; repair of motor vehicles and motorcycle.

Five-year Sectoral Targets are established in respect of each of the sectors only in respect of specific occupational levels (i.e top management, senior management, professionally qualified and middle management, and skilled technical), and people with disabilities. No Sectoral Targets have been set in respect of the remaining occupational levels (i.e semi-skilled and un-skilled). The Sectoral Targets reflect the general percentage of the designated groups which designated employers must achieve, split between males and females across each of the occupational levels. This is a departure from the manner in which designated employers previously had to set targets using the Economic Active Population (“**EAP**”), whereby designated employers had to set targets based on each specific racial group.

The Sectoral Targets are not intended to equate to 100% in recognition that designated employers are likely to continue employing white males and foreign nationals.

2025 Regulations

The 2025 Regulations introduce several administrative changes, as well as significant and substantive alterations to take into account the Sectoral Targets. Some of the more pertinent changes include the following -

- the addition of templates and forms, and the amendment of existing forms, to ensure compliance with the Act and, failing compliance, enforcement of the Act;
- Regulation 9 introduces the following changes and additions –
 - designated employers must prepare and implement an employment equity plan for the period of 1 September 2025 to 31 August 2030. The implication is that, regardless of the current employment equity plans in effect, designated employers must now commence the process of preparing a new, five-year Employment Equity plan in order to align with the Sectoral Targets;
 - designated employers must set numerical targets for all designated groups in each of the four specified occupational levels having regard to the Sectoral Targets and the EAP. Additionally, even though the Sectoral Targets are not applicable for these occupational levels, designated employers must set numerical goals and annual targets at the semi-skilled and unskilled occupational levels having regard to the applicable EAP;
 - a designated employer will incur no penalty or disadvantage if there are reasonable grounds to justify its failure to comply with any target. The reciprocal conclusion is that should a designated employer be unable to provide satisfactory or reasonable explanations for a failure to meet these targets, a monetary fine/penalty may be imposed against the employer;
- in terms of Regulation 10, the Department of Employment and Labour (“**the Department**”) is now at liberty to provide either a letter rejecting an annual report submitted in terms of section 21 of the Act (“**Report**”) if it does not comply with the Act or the 2025 Regulations, a letter advising the employer that there are errors in the Report that must be rectified, or an electronic acknowledgement letter indicating that the Report is complete and has been submitted;
- in terms of Regulation 12, a designated employer must submit its income differential statement in terms of section 27 of the Act, using form EEA4, to the National Minimum Wage Commission;
- Regulation 16, which deals with Employment Equity Compliance Certificates in terms of section 53 of the Act, provides, *inter alia*, that-
 - an employer may request a certificate online in terms of section 53 of the Act, after submitting its annual Report. In any such request the employer must indicate whether it has complied with, *inter alia*, the Sectoral Targets or not;
 - there are seven justifiable reasons for a designated employer's failure to comply with its targets as set out in its Employment Equity Plan. These are –
 - insufficient recruitment opportunities;
 - insufficient promotion opportunities;
 - insufficient target individuals from designated groups with relevant formal qualification, prior learning, relevant experience or capacity to acquire, within a reasonable time, the ability to do the job, as contemplated by sections 20(3) to (5) of the Act;
 - the impact of a CCMA award or court order;
 - a transfer of a business;
 - mergers or acquisitions; and
 - the impact of economic conditions on the business;
- a certificate issued as in terms of this Regulation will be valid for twelve months, unless withdrawn in accordance with the procedure set out in Regulation 17. Notably, Regulations 16 and 17 pertain to section 53 of the Act in respect of which only section 53(5) and (6) have come into effect, as at the date of this article.

With immediate effect, the 2025 Regulations and the Sectoral Targets together bring about a significant change to the Employment Equity landscape. All designated employers and entities seeking to conduct business with any organ of state should pay particular attention to these new developments.

Employers are cautioned to familiarise themselves with the 2025 Regulations and the Sectoral Targets bearing in mind the substantial penalties, monetary fines and other severe consequences that may arise in the event of any non-compliance.

Designated employers would be well advised to take urgent steps to put in place a process to develop and adopt a new Employment Equity Plan, aligned with the Sectoral Targets, commencing on 1 September 2025 and ending 31 August 2030.



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