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EMPLOYMENT

Employment Equity Act compliance

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There has been a recent increase in the number of employment equity audits conducted by the Department of Labour on designated employers.

The reason for this increased drive towards enforcement of a designated employer's obligations in terms of the Employment Equity Act No.55 of 1998 ("EEA"), may be related to the recent amendments to the EEA, effected in 2014. The amended EEA makes provision for the Department of Labour to immediately approach the Labour Court for the imposition of a fine on a designated for non compliance with its obligation to

- prepare and/or implement an employment equity plan; or
- submit an annual employment equity report (EEA2).

The Department of Labour is entitled to approach the Labour Court for the imposition of a fine without giving the designated employer an opportunity to remedy its non-compliance **even in the first instance of non-compliance**.

The fines which the Department of Labour may request are substantial and may have devastating financial implications on a company if applied cumulatively. Alongside is a table listing the fines which may be imposed for the various non compliances.

Previous Contravention	Contravention of any Provision of sections 16 (read with 17), 19, 22, 24, 25, 26 and 43(2)	Contravention of any Provision of sections 20, 21, 23 and 44(b)
No previous contravention	R1 500 000	The greater of R1 500 000 or 2% of the employer's turnover
A previous contravention in respect of the same provision	R1 800 000	The greater of R1 800 000 or 4% of the employer's turnover
A previous contravention within the previous 12 months or two previous contraventions in respect of the same provision within three years	R2 100 000	The greater of R2 100 000 or 6% of the employer's turnover
Three previous contraventions in respect of the same provision within three years	R2 400 000	The greater of R2 400 000 or 8% of the employer's turnover
Four previous contraventions in respect of the same provision within three years	R2 700 000	The greater of R2 700 000 or 10% of the employer's turnover

WHAT IS A DESIGNATED EMPLOYER?

It is an employer who

- employs more than 50 employees;

- employs less than 50 employees but whose annual turnover exceeds the threshold set out in the EEA (which varies depending on industry);
- is a municipality; or
- is an organ of state.

HOW DOES A DESIGNATED EMPLOYER AVOID BEING FINED?

A designated employer may avoid being fined by the Department of Labour by –

- preparing and implementing an employment equity plan;
- submitting an annual employment equity report and income differential statement;
- consulting with its duly established employment equity committee; and
- complying with other ancillary obligations such as assigning an employment equity manager and displaying the relevant information in the workplace.

OUR SERVICES

We are able to assist with

- consulting with designated employers and ensuring that they understand their obligations;
- conducting employment equity audits to determine if the company is compliant with its obligations as a designated employer;
- detailed training of the employment equity committee on their role and functions;
- providing training on the recently gazetted code of good practice on the preparation and implementation of employment equity plans; and
- any other requirements for assistance with employment equity compliance.



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