WERKSMANS
ATTORNEYS

EMPLOYMENT

Employment Equity Amendment Act Commencement – Important news for employers employing more than 50 employees

2 December 2024 *3 min read*

The President of the Republic of South Africa has recently proclaimed that the Employment Equity Amendment Act No.4 of 2022 ("**EEAA**") shall come into operation on **1 January 2025.**

The EEAA was signed into law in April 2023 and has sought to introduce significant amendments to the Employment Equity Act No.55 of 1998 ("**EEA**"). Certain of these changes are likely to impact all employers, however, the majority of the changes are of specific importance to employers employing more than 50 employees (i.e. designated employers).

The most noteworthy amongst the amendments empowers the Minister of Employment and Labour to set numerical targets for the 18 different sectors identified by the Minister ("**sectoral targets**"). Once established, designated employers will be required to comply with these sectoral targets.

While two separate and vastly different draft regulations setting out proposed sectoral targets have already been published, the Minister has yet to issue a final version of such regulations. This has led to some uncertainty and concern amongst the various sectors.

Other, notable, amendments which will come into effect as from 1 January 2025 include

- employers who employ less than 50 employees will no longer be considered to be a designated employer, regardless of the employer's annual turnover (previously employers who employed less than 50 employees but whose annual turnover exceeded a specific threshold set out in Schedule 4 to the EEA, were designated employers). Consequently, schedule 4 of the EEA has been repealed;
- the definition of 'people with disabilities' has been extended to include people with intellectual or sensory impairments which may limit their prospects of entry into, or advancement in, employment;
- psychometric testing of employees or applicants for employment are no longer required to be certified by the Health Professionals Council of South Africa or a similar body, in order for same to be permitted for use;
- the EEA2 reports no longer need to be signed by the Chief Executive Office of a designated employer;
- in assessing a designated employer's compliance with its obligations, a designated employer's compliance with sectoral targets set by the Minister may be taken into account;
- section 53 of the EEA (which is not yet in effect) requires designated employers who intend to conclude agreements with an organ of state for the furnishing of supplies or services, to be in possession of a certificate confirming that they comply with their obligations in terms of the EEA. According to the EEAA, such certificate may only be issued if, inter alia, the designated employer has complied with the sectoral targets, unless there is a reasonable justification for any failure to comply with such targets. As such, under the dispensation of the EEAA, designated employers who fail to comply with the sectoral targets could be precluded from conducting business with government.

In light of the commencement of the EEAA, there has never been a more important time to ensure compliance with the EEA. Werksmans Attorneys offers a wide range of services to assist designated employers with understanding and managing their obligations in this regard (including training, auditing of compliance and ancillary advice and services).

To find out more about the above, feel free to contact the author of this article.



Kerry Fredericks

Director

View Profile