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EMPLOYMENT

Employment Equity Amendment Bill 2020

11 August 2020 *2 min read*

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On 20 July 2020 the Minister of Employment and Labour, Thembelani Waltermade Nxesi, ("**Minister**") announced that he intends to introduce the Employment Equity Amendment, 2020 Bill ("**Bill**") in the National Assembly.

The Bill seeks to amend a number of clauses in the Employment Equity Act 55 of 1998 ("**EEA**"). The proposed amendments, include, among others, the following changes:

- The removal of the requirement that physiological testing and similar assessments of employees be certified by the Health Professions Council of South Africa;
- The amendment of the definition of 'people with disabilities' to align it with the UN Convention on the Rights of Persons with Disabilities, 2007;
- The introduction of provision allowing for numerical targets to be implemented for national economic sectors, so as to ensure equitable representation of suitably qualified groups at all occupational levels in the workforce. It is contemplated that different targets may be set at different occupational levels, sub-sectors, regions or other relevant factors;
- The requirement that an employer's employment equity plan address the numerical targets referred to in (c) above;
- The empowerment of labour inspectors to secure a written undertaking from a 'designated employer' regarding the preparation of employment equity plans;
- Clarification that where a representative trade union is present, a 'designated employer' must consult only with such union on matters requiring consultation in terms of section 17 of the EEA;
- The removal of the requirement that employers with less than 50 employees, but nonetheless earning in excess of a 'turnover threshold', comply with the chapter III of the EEA (i.e. the provisions regarding affirmative action); and
- The requirement that a certificate be issued to employers, confirming their compliance with the provisions of the EEA, as a prerequisite for contracting with the State. Note that this requires an amendment to section 53 of the EEA, which section is yet to become operative.

The Bill containing all the proposed amendments may be accessed at: https://www.gov.za/sites/default/files/gcis_document/202007/43535rg798gon43535.pdf.



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