

EMPLOYMENT

New EEA Form Issued In Terms Of The Employment Equity Act

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Reviewed by Jacques van Wyk, Director

Section 27(1) of the Employment Equity Act 55 of 1998 (“**Act**”) provides that every designated employer must submit an income differential statement to the Employment Conditions Commission on the remuneration and benefits received in each occupational level of that employer’s workforce. The Regulations to the Act provide that the income differential statement must be completed in the form of the EEA4 Form (“**Form**”). Where disproportionate income differentials or unfair discrimination are reflected in the Form, a designated employer is obliged to take measures to progressively reduce such differentials.

On 8 August 2019, the Form was repealed in its entirety (“**Old Form**”) and replaced with a new EEA4 form (“**New Form**”).

The Department of Employment and Labour (“**Labour**”) has stated that the “*old way of collecting data from employers*”^[1] was ineffective and hence the need for the New Form. The New Form is effective as of 8 August 2019.

The main purpose of the New Form is to collect information for the establishment of norms and benchmarks to reduce the remuneration gap between the highest paid and lowest paid employees. Furthermore, it intends to assess inequalities in remuneration in relation to race and gender in various occupational levels.

Having regard to the contents of the New Form, important aspects include:

- The definition of employees includes all employees, foreign nationals and temporary employees. Temporary employees are defined as being employees employed for less than three months over a twelve month period.
- A distinction is made between fixed and variable remuneration which was not included in the Old Form. Employers should note the types of income listed as fixed and variable respectively. This is important as in certain instances the highest or lowest fixed remuneration must be used and in others the variable remuneration. The calculation of remuneration comprises of both fixed and variable remuneration and must be calculated over a 12 month period and reflect the same reporting period covered by the EEA2 Form, as prescribed by the Act and its Regulations.
- Any allowance in cash or kind, gratuities and gifts, non-employment related lump sums (for example severance pay) and dividends are now the only items excluded as remuneration in the New Form.
- Sections D and E are new additions. Section D requires the remuneration for the lowest paid individual at the lowest occupational level and the highest paid individual for each of the other occupational levels in terms of race group and gender to be stated. Section E requires the average/mean remuneration, the median and the remuneration gap to be provided. The key reason for any income differential must be given by the employer. Employers are required to indicate whether they have policies in place to address and close any vertical remuneration gaps between the highest and lowest paid employee in their workforce as well as whether they have affirmative action measures to address the remuneration gap included in their employment equity plan.

All designated employers (as defined in the Act) are obliged to submit the New Form together with the EEA2 Form to the [Employment](#) Conditions Commission. The due date for designated employers to submit is on the first working day of October. Any new employer who becomes a designated employer on or after the first working day of April but before the first working day of October, need only submit their forms on the first working day of October of the following year. The forms can be sent via registered mail or on the Department’s EE Online Reporting System.

Should you require any assistance in obtaining and/or completing the New Form please do not hesitate to contact us.

[1] M Buthelezi “Out with the old and in with the new – Employment Equity roadshow Rustenburg” *Department of Labour* 2019-08-21



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