



## **Getting Employment Equity Right**

President Cyril Ramaphosa signed the Employment Equity Amendment Act 4 of 2022 into law in April of this year. The new law includes changes to the legislation governing workplace transformation, as well as stricter compliance measures for designated employers. Section 15A of the new law introduces sectoral numerical targets with the purpose of ensuring the equitable representation of people from designated groups (historically disadvantaged groups of people based on race, gender, and disability) at all occupational levels in the workforce. The Department of Labour has now published draft regulations which set out the equity targets for each sector. The articles below highlight some of the challenges with these draft sector targets.

### **What you need to know about the new employment equity law**

“The Employment Equity Act applies to all employees and employers who operate in South Africa, except the South African National Defence Force, National Intelligence Agency and South African Secret Services. While the EEA applies to all employers (excluding those listed above), certain sections of the EEA only apply to designated employers. The amendments to the EEA will bring about a change to the definition of “designated employer” to restrict the application of these sections to a reduced group of employers and relieve some of the administrative burden on smaller employers.”

<https://tinyurl.com/yr7wua5m>

### **Amended employment equity laws to further regulate diversity and transformation**

A significant change in the EEA Act is the introduction of sector and sub-sector targets for economic sectors and geographical regions, requiring employers in these sectors to meet specific transformation goals. This is a departure from the previous approach that allowed employers to set their own targets in their employment equity plans.”

<https://tinyurl.com/yc8fxt2e>

### **In the Employment Equity Amendment Act, merit still matters**

“It is clear that the overall aim and object of the EEA, both old and new, is to provide equitable opportunities to black employees, and to ensure demographic representativeness. As long as an employer demonstrably and in good faith pursues those objects by implementing “affirmative action measures”, and follows the prescribed procedure, it will comply with the Act.”

<https://tinyurl.com/53crz85e>

### **Frequently asked questions about the employment sectoral targets**

The amended Employment Equity Act introduces a number of controversial provisions. Among these is the Minister’s power to determine sectoral numerical targets for designated employers.

<https://tinyurl.com/5e756cvu>

### **Big storm brewing over South Africa’s new BEE targets**

Legal experts argue that the introduction of targets is a significant move because, up to this point, there have been no numerical targets in South Africa underpinning affirmative action. “This is a particularly

controversial move by the government because racial quotas are unlawful in South Africa. While the new proposals are technically “numerical targets” – something which is acceptable in law – companies now run the risk of crossing over from one to the other.”

<https://tinyurl.com/msx7845m>

**Sectoral targets under the Employment Equity Act draft regulations need more clarity**

The draft regulations have been published, setting numerical equity targets for more than 15 sectors. However, the draft regulations are not always clear.

<https://tinyurl.com/4785z4fy>

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