
GOVERNMENT NOTICE

DEPARTMENT OF LABOUR**No. R. 1306****8 December 2008****EMPLOYMENT EQUITY ACT, 1998 (ACT 55 OF 1998)****AMENDMENTS TO THE EMPLOYMENT EQUITY REGULATIONS**

I Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, under section 55 (1) of the Employment Equity Act, 1998 (Act No 55 of 1998), and on the advice of the Commission for Employment Equity, give notice of the commencement and invitation for written representations from members of the public to proposed amendments to the regulations made in terms of the Employment Equity Act, Act 55 of 1998, regulations published in notice R 841 in Government Gazette 29130 of 18 August 2006. This notice will be effective from the date of publication.

Interested persons are hereby given the opportunity to make representations to the Commission for Employment Equity. Representations should reach the Executive Manager, Employment Equity, Department of Labour, Private Bag X117, Pretoria, 0001 within 30 days after publication of the notice.



M M S MDLADLANA, MP
MINISTER OF LABOUR

CONTENTS

GENERAL ADMINISTRATIVE REGULATIONS

1. Definitions
2. Assigning a Senior Manager(s)
3. Consultations
4. Collecting information and conducting an analysis (Section 19 of the Act)
5. Duty to prepare and implement an Employment equity plan (Section 20 of the Act)
6. Duty to report (Section 21 of the Act)
7. Duty to inform (Section 25 of the Act)
8. Income differentials statement (Section 27 of the Act)
9. Proof of submission and authenticity
10. Enforcement

FORMS AND ANNEXURES

1. EEA1 Employee declaration in terms of Section 19 (1) of the Act
2. EEA2 Report to Director-General in terms of Section 21 of the Act
3. EEA3 Summary of the Act in terms of Section 25(1) of the Act
4. EEA4 Statement of income differentials in terms of Section 27 of the Act
5. EEA5 Securing an Undertaking in terms of Section 36 of the Act
6. EEA6 Compliance order in terms of Section 37(1) of the Act
7. EEA7 Objection against Compliance Order in terms of Section 39 (1) of the Act
8. EEA8 Annexure 1: Demographic Data
9. EEA9 Annexure 2: Occupational Levels
10. EEA10 Annexure 3: Summary of the employment equity progress report
11. EEA11 Annexure 4: Request for employer's employment equity report

1. Definitions

In these regulations any expression that is defined in the Employment Equity Act, 1998, has that meaning and unless the context otherwise indicates:

- 1.1 **“Director-General”** means the Director-General of the Department of Labour, which also includes the highest authority of the Department of Labour in the:
- (i) Kwa-Zulu/Natal Province;
 - (ii) Northern Cape Province;
 - (iii) Limpopo Province;
 - (iv) North West Province;
 - (v) Eastern Cape Province;
 - (vi) Mpumalanga Province;
 - (vii) Free State Province;
 - (viii) Gauteng Province; and
 - (ix) Western Cape Province.
- 1.2 **“The Act”** means the Employment Equity Act, 1998 (Act No.55 of 1998).
- 1.3 **“Workplace”** means the place or places where the employees of an employer work. If an employer carries on or conducts two or more operations that are independent of one another by reason of their size, function, or organization, the place or places where employees operate.
- 1.4 **Non-permanent workers** refer to those workers who are employed to work for less than 24 hours per month.
- 1.5 **“Designated groups”** means Black people (i.e. Africans, Coloureds and Indians), women and people with disabilities who are natural persons and:
- 1.5.1 are citizens of the Republic of South Africa by birth or descent; or
 - 1.5.2 are citizens of the Republic of South Africa by naturalisation before the commencement date (i.e. 27 April 1994) of the interim Constitution of the Republic of South Africa Act of 1993; or
 - 1.5.3 became citizens of the Republic of South Africa from the commencement date of the interim Constitution of the Republic of South Africa Act of 1993, but who, not for Apartheid policy that had been in place prior to that date, would have been entitled to acquire citizenship by naturalisation prior to that date.
- 1.6 **Foreign Nationals** are those people who are not citizens, or are those who received their citizenship after 26 April 1994 and their descendents.
- 1.7 **Psychological testing and other similar assessments** are prohibited by law unless they comply with Section 8 read with its sub-sections 8(a), (b) and (c) and certified by a competent statutory body (i.e. the Health Professionals Council of South Africa (HPCSA) as amended or a structure with equivalent status).

2. Assigning a Senior Manager(s)

Assigned senior manager(s) for employment equity must be:

- 2.1 Permanent and report directly to the Chief Executive Officer on employment equity matters. This person must have key employment equity outcomes incorporated into their performance contracts;
- 2.2 Given the necessary executive authority and mandate; and
- 2.3 Provided with an appropriate budget and access to other required resources.

3. Consultations

- 3.1 All employees must be informed of the content and application of the Act, employment equity and anti-discrimination issues, the process to be followed by the employer, and the need for the involvement of all stakeholders, as preparation for their participation and consultation.
- 3.2 A consultative forum must be established or an existing forum utilised. The forum must include employee representatives reflecting the interests of employees from all occupational categories and levels and both designated and non-designated groups.
- 3.3 Consultation must include:
 - a) Regular meetings and feedback to employees and management; and
 - b) Access to relevant information by employees.
- 3.4 Where a representative body or trade union refuses to take part in the consultation process, the employer must record the circumstances in writing. A copy of this document must be provided to the representative body or trade union concerned.

4. Collecting information and conducting an analysis (Section 19 of the Act)

- 4.1 When a designated employer collects information about individual employees for the purpose of compiling a workforce profile to determine the degree to which employees from designated groups might be underrepresented, the employer must request each employee in the workforce to complete a declaration using the EEA1 form.
- 4.2 Employees must at any time be able to add information to the EEA1 form.
- 4.3 Where an employee refuses to complete the EEA1 form or provides inaccurate information, the employer may establish the designation of an employee by using reliable historical and existing data.
- 4.4 A designated employer must use section B of the EEA2 form to develop the workforce profile of employees as required by section 19(2) of the Act.
- 4.5 When a designated employer conducts the analysis required by section 19(1) of the Act, the employer may refer to:
 - a) Annexure 1, for demographic data; and
 - b) Annexure 2, which contains the definitions of occupational levels.
- 4.6 A designated employer must refer to the relevant **Codes of Good Practice** as a guide when collecting information and conducting the analysis required by section 19 of the Act.
- 4.7 The analysis must involve reviewing of all policies, procedures, practices and the work environment in order to eliminate unfair discrimination and promote employment equity in the workplace.

5. Duty to prepare and implement an employment equity plan (Section 20 of the Act)

- 5.1 A designated employer must refer to the relevant **Codes of Good Practice** when preparing the employment equity plan required by section 20 of the Act.
- 5.2 A designated employer must retain the employment equity plan for a period of three years after the expiry of the plan, unless the employer employs fewer than 150 employees, in which case the plan must be retained for two years.
- 5.3 The employment equity plan must contain a description of the measures taken by the designated employer to eliminate unfair discrimination in that employer's workplace.

6. Duty to report (Section 21 of the Act)

- 6.1 Each designated employer must submit a report in terms of Section 21 of the Act using the EEA2 form together with the EEA4 form to: Employment Equity Registry, Department of Labour, Private BagX117, Pretoria, 0001.
- 6.2 Large employers must submit their first report within six months of being designated, and thereafter annually on the first working day of October; and small employers must submit their first report within twelve months of being designated, and thereafter on the first working day of October of every year that ends with an even number.
- 6.3 Large employers, i.e. employers with 150 and more employees, must complete the entire EEA2 reporting form. Small employers, i.e. employers with fewer than 150 employees, must only complete areas of the EEA2 form that apply to them. Areas that only apply to small employers shall be made available by the Department in a separate form as well. All relevant areas of the form must be fully and accurately completed by employers. Blank spaces in the forms will not be accepted. Employers who fail to observe this provision will be deemed not to have reported.
- 6.4 A designated employer whose operations extend across different geographical areas or workplaces may choose to submit a separate report for each registered entity or submit a consolidated report. The method of reporting should remain for the period of the plan, and must be consistent from year-to-year and from reporting period to reporting period. Employers who submit consolidated reports must have a consolidated plan with individual employment equity (EE) plans and relevant information for each entity or workplace that have been included in the consolidated report. The consolidated report and the individual EE plans and relevant information must be made available at each entity or workplace. Any change to the reporting status must be immediately reported to the Department by the employer.
- 6.5 Only newly designated employers are allowed to notify the Director General if they are not able to report on the first working day of October. The notification must be done in writing together with valid reasons. This notification must reach the Director General by no later than the last working day of August in the same year. The Director General will examine the reasons that were provided by the employer and shall decide on whether to accept or reject them. The Director General's decision shall be final.
- 6.6 A designated employer must retain a copy of the report for a period of three years after it has been submitted to the Director-General, unless the employer has fewer than 150 employees, in which case the report must be retained for two years.

7. Duty to inform (Section 25 of the Act)

- 7.1 Each employer must display the notice required by Section 25(1) of the Act (i.e. the summary of the Act annexed as EEA3 in the regulations) in their workplace.
- 7.2 If there are employees in the workplace who are unable to read this notice, the employer must inform those employees about the provisions of the Act.

8. Income differentials (section 27 of the Act)

- 8.1 Each designated employer must submit a statement of income differentials required by section 27 of the Act using the EEA4 form.
- 8.2 When completing the EEA4 form, designated employers must refer to the EEA9 for guidance.
- 8.3 Designated employers must submit the EEA4 statement together with the EEA 2 Forms to: Employment Equity Registry, Department of Labour, Private BagX117, Pretoria, 0001.
- 8.4 Designated employers must retain a copy of the statement for a period of three years after it has been submitted to the Employment Conditions Commission, unless the employer has fewer than 150 employees, in which case the statement must be retained for two years.

9. Proof of submission and authenticity

- 9.1 Whenever a person is required to satisfy any other person that a copy of any document required or prescribed by the Act or its regulations has been submitted to the other party, that person may do so by providing:
 - a) A copy of the proof of mailing the document by registered post to the other party;
 - b) A copy of the telefax or e-mail, including proof of transmission of the document to the other party;
 - c) A copy of a receipt signed by the other party or on that party's behalf if the document was delivered by hand;
 - d) A statement confirming delivery signed by the person who delivered the document; or
 - e) A letter generated from the Department of Labour's Online Reporting system.
- 9.2 A copy of any document submitted to a Labour Inspector or any official of the Department of Labour must be signed by an authorised person as proof of authenticity.

10. Enforcement (Chapter 5 of the Act)**10.1 Securing an undertaking (Section 36 of the Act):**

A labour inspector must request and obtain a written undertaking using the EEA5 form.

10.2 Compliance order (Section 37 of the Act):

A labour inspector may issue a compliance order to a designated employer using the EEA6 form.

10.3 Objections to compliance order (Section 39 of the Act):

- (a) A designated employer may object to a compliance order by making a representation to the Director-General using the EEA7 form.
- (b) The objection must be lodged with the highest authority at the Provincial level of the Department of Labour.



DEPARTMENT OF LABOUR

(Confidential)
Declaration by employee

**PLEASE READ
THIS FIRST**

Purpose of this form

This form is used to obtain information from employees for the purpose of assisting employers with conducting an analysis on the workforce profile. Employers should use this form to ascertain which employees are from designated groups in terms of the Employment Equity Act, 55 of 1998.

Who fills in this form

Employees should fill in this form.

Instructions

Employers must ensure that the contents of this form remain confidential, and that it is only used to comply with the Employment Equity Act, 55 of 1998.

1. Name of employee: _____

2. Employee workplace No: _____
(This is the number that an employer/company/organization uses to identify an employee in the workplace.)

3. Please indicate to which categories you belong:

| | | | |
|--|--------------------------|----------|--------------------------|
| Male | <input type="checkbox"/> | Female | <input type="checkbox"/> |
| African | <input type="checkbox"/> | Coloured | <input type="checkbox"/> |
| Indian | <input type="checkbox"/> | White | <input type="checkbox"/> |
| Foreign National: <input type="checkbox"/> | | | |
| If you are not a citizen by birth, please indicate the date you acquired your citizenship: | | | |
| Person with a disability: <input type="checkbox"/> | | | |
| Specify nature of disability: _____ | | | |

4. I verify that the above information is true and correct.

Signed: _____
Employee

Date: _____

Please indicate below the period the report covers (in the case of large employers the preceding twelve months and for small employers twenty-four months, except for first time reporting where the period may be shorter):

From (date): _____ To (date): _____

Please indicate below the duration of your current employment equity plan:

From (date): _____ To (date): _____

Please read this first

- a. The method of reporting should remain for the period of the plan, and must be consistent from year-to-year and from reporting period to reporting period.
- b. Blank spaces in tables and check boxes will be interpreted by the Department of Labour to mean the number 'Zero' or the word 'No'.
- c. All relevant areas of the form must be fully and accurately completed by employers. Designated employers who fail to observe this provision will be deemed not to have reported. Non-permanent workers refer to those workers who are employed to work for less than 24 hours per month.
- d. Employers must complete Section H that deals with numerical goals and numerical targets. Numerical goals are the workforce profile the employer is striving to achieve in the workplace at the end of the duration of the employer's current employment equity plan. The numerical goals of the employer must be the same for the entire duration of the employment equity plan. Numerical targets are the workforce profile the employer is striving to achieve at the end of the period following the period covered by the current report of the employer.
- e. Large employers, i.e. employers with 150 and more employees, must complete the entire EEA2 reporting form. Small employers, i.e. employers with fewer than 150 employees, must only complete areas of the EEA2 form that apply to them. Areas that only apply to small employers shall be made available by the Department in a separate form as well. All relevant areas of the form must be fully and accurately completed by employers.
- f. The alphabets "A", "C", "I" and "W" used in the tables have the following corresponding meanings and must be interpreted as "Africans", "Coloureds", "Indians" and "Whites" respectively.
- g. "Designated groups" means Black people (i.e. Africans, Coloureds and Indians), women and people with disabilities who are natural persons and are citizens of the Republic of South Africa by birth or descent; or are citizens of the Republic of South Africa by naturalization before the commencement date (i.e. 27 April 1994) of the Constitution of the Republic of South Africa Act of 1993; or became citizens of the Republic of South Africa from the commencement date of the Constitution of the Republic of South Africa Act of 1993, but who, not for Apartheid policy that had been in place prior to that date, would have been entitled to acquire citizenship by naturalization prior to that date.
- h. All population groupings who are not part of the Black group, but in substance fall within the definition described in paragraph (j) in terms of citizenship or descent, must be counted and included in the column of each table in the form that require data on the White group.
- i. Foreign nationals and South African citizens that fall outside the definition described in paragraphs (j) or (k) must be counted and included in the column of each table in the form that require data on foreign nationals.

2. Core Operation Functions by Occupational Level

A job could either be a **Core operation** function or a **Support** function. **Core operation Function** positions are those that directly relate to the core business of an organization and may lead to revenue generation e.g. sales production, etc. Whereas **Support Functions** positions provide infrastructure and other enabling conditions for revenue generation e.g. human resources corporate services etc. Please indicate on table 2.1 the number of employees that are in **Core Operation Function** positions.

2.1 Please indicate the total number of employees (including people with disabilities), that are involved in **Core Operation Function** positions at each level in your organization only. Note: A=Africans, C=Coloureds, I=Indians and W=Whites

| Occupational Levels | Male | | | | Female | | | | Foreign Nationals | | Total |
|--|------|---|---|---|--------|---|---|---|-------------------|--------|-------|
| | A | C | I | W | A | C | I | W | Male | Female | |
| Top management | | | | | | | | | | | |
| Senior management | | | | | | | | | | | |
| Professionally qualified and experienced specialists and mid-management | | | | | | | | | | | |
| Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents | | | | | | | | | | | |
| Semi-skilled and discretionary decision making | | | | | | | | | | | |
| Unskilled and defined decision making | | | | | | | | | | | |
| TOTAL PERMANENT | | | | | | | | | | | |
| Non – permanent employees | | | | | | | | | | | |
| GRAND TOTAL | | | | | | | | | | | |

5. Termination

5.1 Please report the total number of terminations in each occupational level, including people with disabilities. Note: A=Africans, C=Coloureds, I=Indians and W=Whites

| Occupational Levels | Male | | | | Female | | | | Foreign Nationals | | Total |
|--|------|---|---|---|--------|---|---|---|-------------------|--------|-------|
| | A | C | I | W | A | C | I | W | Male | Female | |
| Top management | | | | | | | | | | | |
| Senior management | | | | | | | | | | | |
| Professionally qualified and experienced specialists and mid-management | | | | | | | | | | | |
| Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents | | | | | | | | | | | |
| Semi-skilled and discretionary decision making | | | | | | | | | | | |
| Unskilled and defined decision making | | | | | | | | | | | |
| TOTAL PERMANENT | | | | | | | | | | | |
| Non – permanent employees | | | | | | | | | | | |
| GRAND TOTAL | | | | | | | | | | | |

5.2 Please report the total number of terminations in each termination category below. Note: A=Africans, C=Coloureds, I=Indians and W=Whites

| Occupational Levels | Male | | | | Female | | | | Foreign Nationals | | Total |
|--|------|---|---|---|--------|---|---|---|-------------------|--------|-------|
| | A | C | I | W | A | C | I | W | Male | Female | |
| Top management | | | | | | | | | | | |
| Senior management | | | | | | | | | | | |
| Professionally qualified and experienced specialists and mid-management | | | | | | | | | | | |
| Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents | | | | | | | | | | | |
| Semi-skilled and discretionary decision making | | | | | | | | | | | |
| Unskilled and defined decision making | | | | | | | | | | | |
| TOTAL PERMANENT | | | | | | | | | | | |
| Non – permanent employees | | | | | | | | | | | |
| GRAND TOTAL | | | | | | | | | | | |

Section D

7. Skills Development

7.1 Please report the total number of people from the designated groups who received training, including for people with disabilities, and not the number of training courses attended, in each **occupational level** solely for the purpose of achieving the numerical goals. Note: A=Africans, C=Coloureds, I=Indians and W=Whites

| Occupational Levels | Male | | | | Female | | | | Foreign Nationals | | Total |
|--|------|---|---|---|--------|---|---|---|-------------------|--------|-------|
| | A | C | I | W | A | C | I | W | Male | Female | |
| Top management | | | | | | | | | | | |
| Senior management | | | | | | | | | | | |
| Professionally qualified and experienced specialists and mid-management | | | | | | | | | | | |
| Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents | | | | | | | | | | | |
| Semi-skilled and discretionary decision making | | | | | | | | | | | |
| Unskilled and defined decision making | | | | | | | | | | | |
| TOTAL PERMANENT | | | | | | | | | | | |
| Non – permanent employees | | | | | | | | | | | |
| GRAND TOTAL | | | | | | | | | | | |

7.2 Please report the total number for people with disabilities only, and not the number of training courses attended, in each **occupational level** solely for the purpose of achieving the numerical goals. Note: A=Africans, C=Coloureds, I=Indians and W=Whites

| Occupational Levels | Male | | | | Female | | | | Foreign Nationals | | Total |
|--|------|---|---|---|--------|---|---|---|-------------------|--------|-------|
| | A | C | I | W | A | C | I | W | Male | Female | |
| Top management | | | | | | | | | | | |
| Senior management | | | | | | | | | | | |
| Professionally qualified and experienced specialists and mid-management | | | | | | | | | | | |
| Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents | | | | | | | | | | | |
| Semi-skilled and discretionary decision making | | | | | | | | | | | |
| Unskilled and defined decision making | | | | | | | | | | | |
| TOTAL PERMANENT | | | | | | | | | | | |
| Non – permanent employees | | | | | | | | | | | |
| GRAND TOTAL | | | | | | | | | | | |

SECTION E

8. Numerical goals

8.1 Please indicate the numerical goals (i.e. the workforce profile) you have set to achieve for the total number of employees (including people with disabilities) at the end of your current employment equity plan in terms of occupational levels. Note: A=Africans, C=Coloureds, I=Indians and W=Whites:

| Occupational Levels | Male | | | | Female | | | | Foreign Nationals | | Total |
|--|------|---|---|---|--------|---|---|---|-------------------|--------|-------|
| | A | C | I | W | A | C | I | W | Male | Female | |
| Top management | | | | | | | | | | | |
| Senior management | | | | | | | | | | | |
| Professionally qualified and experienced specialists and mid-management | | | | | | | | | | | |
| Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents | | | | | | | | | | | |
| Semi-skilled and discretionary decision making | | | | | | | | | | | |
| Unskilled and defined decision making | | | | | | | | | | | |
| TOTAL PERMANENT | | | | | | | | | | | |
| Non – permanent employees | | | | | | | | | | | |
| GRAND TOTAL | | | | | | | | | | | |

8.2 Please indicate the numerical goals (i.e. the workforce profile) you have set to achieve for the total number of **employees with disabilities only** at the end of your current employment equity plan in terms of occupational levels.

| Occupational Levels | Male | | | | Female | | | | Foreign Nationals | | Total |
|--|------|---|---|---|--------|---|---|---|-------------------|--------|-------|
| | A | C | I | W | A | C | i | W | Male | Female | |
| Top management | | | | | | | | | | | |
| Senior management | | | | | | | | | | | |
| Professionally qualified and experienced specialists and mid-management | | | | | | | | | | | |
| Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents | | | | | | | | | | | |
| Semi-skilled and discretionary decision making | | | | | | | | | | | |
| Unskilled and defined decision making | | | | | | | | | | | |
| TOTAL PERMANENT | | | | | | | | | | | |
| Non – permanent employees | | | | | | | | | | | |
| GRAND TOTAL | | | | | | | | | | | |

Section F *(This section is not applicable to small employers)*

9. Disciplinary Action

9.1 Disciplinary action: (report the total number of disciplinary actions during the twelve months preceding this report). Report on formal outcomes only. Note: A=Africans, C=Coloureds, I=Indians and W=Whites

| DISCIPLINARY ACTION | Male | | | | Female | | | | Foreign Nationals | | Total |
|---------------------|------|---|---|---|--------|---|---|---|-------------------|--------|-------|
| | A | C | I | W | A | C | I | W | Male | Female | |
| | | | | | | | | | | | |

10. Awareness of Employment Equity

Please indicate which of the following awareness measures were implemented by your organization:

| | No. of employees | Yes | No |
|--|------------------|-----|----|
| Formal written communication | | | |
| Policy statement includes reference to employment equity | | | |
| Summary of the Act displayed | | | |
| Employment Equity training | | | |
| Diversity management programmes | | | |
| Discrimination awareness programmes | | | |

11. Consultation

Please indicate which stakeholders were involved in the consultation process when developing and implementing your employment equity plan and when preparing this Employment Equity Report:

| | Yes | No |
|--|-----|----|
| Consultative body or employment equity forum | | |
| Registered trade union (s) | | |
| Employees | | |

12. Barriers and affirmative action measures

Please indicate in which categories of employment policy or practice barriers to employment equity were identified. If your answer is 'Yes' to barriers in any of the categories, please indicate whether you have developed affirmative action measures and the timeframes to overcome them.

| Categories | BARRIERS | | AFFIRMATIVE ACTION MEASURES | | TIMEFRAME FOR IMPLEMENTATION OF AA MEASURES | |
|---|----------|----|-----------------------------|----|---|----------|
| | YES | NO | YES | NO | START DATE | END DATE |
| Recruitment procedures | | | | | | |
| Advertising positions | | | | | | |
| Selection criteria | | | | | | |
| Appointments | | | | | | |
| Job classification and grading | | | | | | |
| Remuneration and benefits | | | | | | |
| Terms & conditions of employment | | | | | | |
| Job assignments | | | | | | |
| Work environment and facilities | | | | | | |
| Training and development | | | | | | |
| Performance and evaluation | | | | | | |
| Promotions | | | | | | |
| Transfers | | | | | | |
| Succession & experience planning | | | | | | |
| Disciplinary measures | | | | | | |
| Dismissals | | | | | | |
| Corporate culture | | | | | | |
| Reasonable accommodation | | | | | | |
| HIV&AIDS prevention and wellness programmes | | | | | | |
| Appointed senior manage(s) to manage EE implementation | | | | | | |
| Budget allocation in support of employment equity goals | | | | | | |
| Time off for employment equity consultative committee to meet | | | | | | |

13. Monitoring and evaluation of implementation

13.1 How regularly do you monitor progress on the implementation of the employment equity plan? Please choose one.

| | | | |
|--------|---------|-----------|--------|
| Weekly | Monthly | Quarterly | Yearly |
| | | | |

13.2 Did you achieve the annual objectives as set out in your employment equity plan for this period?

| | | |
|-----|----|----------------|
| Yes | No | Please explain |
| | | |

Section G: Signature of the Chief Executive Officer

Chief Executive Officer

I hereby declare that I have read, approved and authorized this report.

Signed on this _____ day of _____ year _____

At place: _____

Signature: Chief Executive Officer (Full Name)



SUMMARY OF THE EMPLOYMENT EQUITY ACT, 55 OF 1998, ISSUED IN TERMS OF SECTION 25(1)

1. Chapter 1 – Definition, purpose, interpretation and application

Purpose of the Act: Section 2

The purpose of this act is to achieve equity in the workplace by-

- (a) Promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination; and
- (b) Implementing affirmative action measures to redress the disadvantages in employment experienced by designated groups to ensure their equitable representation in all occupational categories and levels in the workforce.

Application of the Act: Section 4

- (a) Chapter II (section 5-11) applies to all employers and employees.
- (b) Chapter III (section 12-27) applies to designated employers and people from designated groups.
- (c) A designate employer means an employer who employs 50 or more employees, or has a total annual turnover as reflected in Schedule 4 of the Act, municipalities and organs of State. Employers can also volunteer to become designated employers.
- (d) A designated group means black people, women and people with disabilities.
- (e) The South African National Defence Force, National Intelligence Agency, and South African Secrete Services are excluded from this Act.

2. Chapter II – prohibition of unfair discrimination

No person may unfairly discriminate, directly or indirectly, against an employee in any employment policy or practice, on one or more grounds including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language and birth.

It is not unfair discrimination to promote affirmative action consistent with the Act or to prefer or exclude any person on the basis of an inherent job requirement.

Medical testing

- (a) Medical testing of an employee is permissible only when legislation requires testing or when this is justifiable for various reasons.
- (b) HIV testing is prohibited unless such testing is determined to be justifiable by the Labour Court.

Psychological testing: Section 8

Psychological testing and similar assessments are prohibited, unless the test is scientifically valid and reliable, can be applied fairly to all employees, and is not biased against any employee or group.

Disputes concerning this Chapter: Section 10

- (a) An employee, or applicant for employment, may refer a dispute concerning alleged unfair discrimination (or medical or psychological testing) to the CCMA for conciliation. This must be done within six months of the alleged discrimination (or testing).
- (b) If a dispute is not resolved at conciliation, a party may refer it to the Labour Court for adjudication. The parties to a dispute may also agree to refer the dispute to arbitration.
- (c) Unfair dismissal disputes in which unfair discrimination is alleged must be dealt with in terms of the Labour Relations Act. The dismissal must be referred to the CCMA within 30 days.

3. Chapter III – Affirmative Action

3.1 Duties of a designated employer

- (a) A designated employer must implement affirmative action measures for designated groups to achieve employment equity.
- (b) In order to implement affirmative action measures, a designated employer must
 - I. Consult with employees;
 - II. Conduct analysis;
 - III. Prepare an employment equity plan; and
 - IV. Report to the Director-General on progress made in the implementation of the plan.

3.2 Affirmative action

- (a) Affirmative action measures are measures intended to ensure that suitably qualified employees from designated groups have equal employment opportunity and are equitably represented in all occupational categories and levels of the workforce.
- (b) Such measures must include:
 - I. Identification and elimination of barriers with an adverse impact on designated groups;
 - II. Measures which promote diversity
 - III. Making reasonable accommodation for people from designated groups;
 - IV. Retention, development and training of designated groups (including skills development); and
 - V. Preferential treatment and numerical goals to ensure equitable representation, which exclude quotas.
- (c) Designated employers are not required to take any decision regarding an employment policy or practice that would establish an absolute barrier to prospective or continued employment or advancement of people not from designated groups.

3.3 Consultation: section 16 and 17

A designated employer must take reasonable steps to consult with representatives of employees representing the diverse interests of the workforce on the conducting of an analysis, preparation and implementation of a plan, and on reporting to the Director-General.

3.4 Disclosure of information: Section 18

To ensure meaningful consultation, the employer must disclose relevant information to the consulting parties, subject to section 16 of the Labour Relations Act 66 of 1995.

3.5 Analysis: Section 19

A designated employer must conduct an analysis of employment policies, practices, procedures and the work environment so as to identify employment barriers that adversely affect members of the designated groups. The analysis must also include the development of a workforce profile to determine to what extent designated groups are under-represented in the workplace.

3.6 Employment Equity Plan: Section 20

A designated employer must prepare and implement a plan to achieve employment equity, which must

- a) Have objectives for each year of the plan;
- b) Include affirmative action measures;
- c) Have numerical goals for achieving equitable representation;
- d) Have a timetable for each year;
- e) Have internal monitoring and evaluation procedures, including internal dispute resolution mechanisms; and
- f) Identify persons, including senior managers, to monitor and implement the plan.

3.7 Report: Section 21

- (a) An employer who employs fewer than 150 employees must submit its first report to the Director-General within 12 months after commencement of the Act, and thereafter every two years on the first working day of October.
- (b) An employer who employs 150 or more employees must submit its first report six months after the commencement of the Act, and thereafter every year on the first working day of October.

3.8 Designated employer must assign a manager: Section 24

A designated employer must assign one or more senior managers to ensure implementation and monitoring of the employment equity plan and must make available necessary resources for this purpose.

3.9 Income differentials: Section 27

A statement of remuneration and benefits received in each occupational category and level of the workforce must be submitted by a designated employer to the Employment Conditions Commission (ECC).

Where there are disproportionate income differentials, a designated employer must take measures to reduce it progressively. Such measures may include collective bargaining, compliance with sectoral determinations (Section 51 of the Basic Conditions of Employment Act, 1997); the application of norms and benchmarks recommended by the ECC, relevant measures contained in skills development legislation and any other appropriate steps.

4. Chapter v - Monitoring, Enforcement and Legal Proceedings

4.1 Monitoring: Section 34

Employee or trade union representatives can monitor contraventions of the Act and report to relevant bodies.

4.2 Powers of the Labour Inspector: Section 35

Labour Inspectors are authorised to conduct an inspection as provided for in section 65 and 66 of the Basic Conditions of Employment Act, 1997.

4.3 Undertaking to comply: Section 36

If the inspector has reasonable grounds to believe a designated employer has failed to comply with its obligations in terms of the Act, the inspector will obtain a written undertaking to comply within a specified period.

4.4 Compliance Order: Section 37

If the designate employer refuses to comply with the written undertaking, the inspector will issue a compliance order.

4.5 Review by Director-General: Section 43

The Director-General may conduct a review to determine whether an employer is complying with the Act. On completion of the review, the Director-General may make recommendations for compliance within certain frames.

4.6 Powers of the Labour Court: Section 50

The Labour Court has the powers to make any appropriate orders, award compensation or impose fines.

4.7 Protection of employee Rights: Section 51

The Act protects employees who exercise their rights and obligations under the Act against victimisation, obstruction and undue influence.

5. Chapter IV – General Provisions

5.1 State contracts: Section 53

Designated employers and employers who voluntarily comply with Chapter III, and who seek to do business with any organ of state, will have to apply for a certificate from the Minister confirming their compliance with chapter II and III of the Act. Non-designated employers' compliance certificate will pertain to chapter II.

5.2 Liability of Employers: Section 60

Should employees contravene any provision of this Act while performing their duties; the employer will be liable, unless the employer can prove that it did everything in its power to prevent the undesired act.



| PLEASE READ THIS FIRST | SECTION A: EMPLOYER DETAILS & INSTRUCTIONS | |
|--|--|--|
| <p>WHAT IS THE PURPOSE OF THIS FORM? This form contains the format for reporting income differentials to the Employment Conditions Commission.</p> <p>WHO FILLS IN THIS FORM? All designated employers must complete every section of this statement.</p> <p>SEND TO: Employment Equity Registry The Department of Labour Private Bag X117 Pretoria 0001</p> <p>Online reporting: www.labour.gov.za Helpline: 0860101018</p> | Trade name | |
| | DTI registration name | |
| | DTI registration number | |
| | PAYE/SARS number | |
| | UIF reference number | |
| | EE reference number | |
| | Industry/Sector | |
| | Seta classification | |
| | Telephone number | |
| | Fax number | |
| | Email address | |
| | Postal address | |
| | Postal code | |
| | City/Town | |
| | Province | |
| | Physical address | |
| | Postal code | |
| | City/Town | |
| | Province | |
| | Details of CEO at the time of submitting this report | |
| | Name and surname | |
| | Telephone number | |
| | Fax number | |
| | Email address | |
| | Details of Senior Manager for Employment Equity at the time of submitting this report | |
| Name and Surname | | |
| Telephone number | | |
| Fax number | | |
| Email address | | |
| Business type | | |
| <input type="checkbox"/> Private Sector | <input type="checkbox"/> Parastatal | |
| <input type="checkbox"/> National Government | <input type="checkbox"/> Provincial Government | |
| <input type="checkbox"/> Local Government | <input type="checkbox"/> Educational Institution | |
| <input type="checkbox"/> Non-profit Organization | | |
| Information about the organization at the time of submitting this report | | |
| Number of employees in the organization | <input type="checkbox"/> 0 to 49 <input type="checkbox"/> 50 to 149 <input type="checkbox"/> 150 or more | |
| Is your organization an organ of State? | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| Is your organisation part of a group? | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| If yes, please provide the name. | _____ | |
| Date of submitting this report | | |

THE FOLLOWING MUST BE TAKEN INTO CONSIDERATION WHEN COMPLETING THE EEA4 FORMS

1. Foreign nationals should be included when completing the EEA4 form in the spaces provided on the table.
2. Non permanent workers are those workers who worked less than 24 hours a month during the period of reporting.
3. The calculation of remuneration must include twelve months of a financial year that is in line with the period covered by the EEA2 reporting form. Where this is not possible, e.g. in the case of non-permanent employees, the total payment the person received for the period worked should be divided by the number of months worked, and then multiplied by twelve.
4. All payment amounts to be reflected in the form below must be rounded to the nearest Rand (R) and included as the total remuneration for each group in terms of race and gender in the table below.
5. The payments below indicate what must be included and what must be excluded in an employee's remuneration for the purposes of calculating pay in order to complete the EEA4 form.

Included

- a) Housing or accommodation allowance or subsidy or housing or accommodation received as a benefit in kind;
- b) Car allowance or provision of a car, except to the extent that the car is provided to enable the employee to work;
- c) Any cash payments made to an employee, except those listed as exclusions in terms of this schedule;
- d) Any other payment in kind received by an employee, except those listed as exclusions in terms of this schedule;
- e) Employer's contributions to medical aid, pension, provident fund or similar schemes;
- f) Employer's contributions to funeral or death benefit schemes.

Excluded

- g) Any cash payment or payment in kind provided to enable the employee to work (for example, an equipment, tool or similar allowance or the provision of transport or the payment of a transport allowance to enable the employee to travel to and from work);
 - h) A relocation allowance;
 - i) Gratuities (for example, tips received from customers) and gifts from the employer;
 - j) Share incentive schemes;
 - k) Discretionary payments not related to an employee's hours of work or performance (for example, a discretionary profit-sharing scheme);
 - l) An entertainment allowance;
 - m) An education or schooling allowance.
6. The value of payments in kind must be determined as follows -
- a) A value agreed to in either a contract of employment or collective agreement, provided that the agreed value may not be less than the cost to the employer of providing the payment in kind; or
 - b) The cost to the employer of providing the payment in kind.
 - c) An employee is not entitled to a payment or the cash value of a payment in kind as part of remuneration if -
 - d) the employee received the payment or enjoyed, or was entitled to enjoy, the payment in kind during the relevant period; or
 - e) In the case of a contribution to a fund or scheme that forms part of remuneration, the employer paid the contribution in respect of the relevant period.
 - f) This schedule only applies to pay for annual leave accrued from the date of operation of this Schedule.
7. If a payment fluctuates, it must be calculated over a period of 13 weeks or, if the employee has been in employment for a shorter period, that period.
8. A payment received in a particular period in respect of a longer period (e.g. a thirteenth cheque) must be pro-rated.



PLEASE READ THIS FIRST



WHAT IS THE PURPOSE OF THIS FORM?

To record an Undertaking by the employer to comply with Section 36 of the Employment Equity Act, 55 of 1998.

WHO FILLS IN THIS FORM?

The employer, assisted by the inspector.

WHERE DOES THIS FORM GO?

This form goes to the inspector.

INSTRUCTIONS

An Undertaking may be secured when an inspector has reasonable grounds to believe that a designated employer has failed to comply with one or more paragraph(s) of Section 36 of the Act.

Failure to comply with this undertaking will result in a Compliance Order (EEA6) being issued.

DEPARTMENT OF LABOUR

WRITTEN UNDERTAKING

Ref/Case No:.....

Employer's Enquiries:.....

Date of Undertaking:

I / We..... (Employer)

..... (Registration No.)

undertake to comply with the following provisions of the Act and its regulations below by: Date.....:

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

ISSUED ONDAY OFYEAR.....

AT.....(PLACE)

.....
SIGNED: EMPLOYER

.....
SIGNED: LABOUR INSPECTOR

CONTACT DETAILS OF INSPECTOR:

WITNESSES 1.

2.

| | | |
|---|-------------|------|
|  <p>labour Department Labour REPUBLIC OF SOUTH AFRICA</p> | PAGE 1 OF 2 | EEA6 |
|---|-------------|------|

PLEASE READ THIS FIRST



WHAT IS THE PURPOSE OF THIS FORM?

This form is issued in terms of Section 37 of the Employment Equity Act, 55 of 1998. The purpose of this form is to enforce compliance relating of Section 36 of the Act.

WHO FILLS IN THIS FORM?

An inspector fills this form.

WHERE DOES THIS FORM GO?

This form goes to the employer.

INSTRUCTIONS

- The inspector may issue a Compliance Order to a designated employer if that employer has refused to give a Written Undertaking (EEA5) in terms of Section 36.
- The employer must display a copy of this order prominently at a place accessible to the affected employees at each workplace named in it.
- An employer must comply within the time period stated unless the employer objects in terms of Section 39.
- Failure to comply could result in a referral to the Labour Court.

DEPARTMENT OF LABOUR

COMPLIANCE ORDER

Ref/Case No:.....

Enquiries:.....

Date of issue:.....

Provincial Office/Labour Centre:.....
(Delete that which is not applicable)

1. Employer:.....

1. Registration No:.....

2. Workplace(s):.....

3. You have not complied with the following provisions of the Act and its regulations.

Provisions:.....
.....

4. Details:.....
.....
.....

AND / OR

5. You have not complied with your written undertaking to the following extent:
.....
.....
.....

AND

6. You are required to implement the following within ____ days of receipt hereof.

7.1

7.2

AND / OR

7. Fines

7.1 The Director General may recommend to the Labour Court to impose a fine in accordance with Schedule 1 of the Act.

| | | |
|---|-------------|------|
|  <p>labour Department Labour REPUBLIC OF SOUTH AFRICA</p> | PAGE 2 OF 2 | EEA6 |
|---|-------------|------|

8. Objections

You may object to this compliance order by making representations to the Director General within 21 days of receipt of this order.

SECURED ONDAY OF.....

YEARAT (PLACE)

.....
LABOUR INSPECTOR



DEPARTMENT OF LABOUR

PLEASE READ THIS FIRST



WHAT IS THE PURPOSE OF THIS FORM?

This form is issued in terms of Section 39 of the Employment Equity Act, 55 of 1998. A designated employer may lodge an objection to a compliance order by completing this form.

WHO FILLS IN THIS FORM?

The employer must fill in this form.

WHERE DOES THIS FORM GO?

To the Provincial Office of the Department from which the compliance order was issued.

INSTRUCTIONS

- This objection must be lodged to the office of the Provincial Director that issued the compliance order within 21 days of the date of receipt of the compliance order.
- The objection must include all relevant information.
- A copy must be delivered to the employee(s) affected by it, or if this is impractical to a representative of the employee(s), including a registered trade union.

OBJECTION AGAINST A COMPLIANCE ORDER IN TERMS OF SECTION 39 OF THE ACT

NOTICE OF OBJECTION

- 1. Employer:.....
Registration No:.....
Telephone No:.....
Fax:.....
Address:.....
Postal Code.....
2. Quote the reference number and date of the compliance order against which the objection is lodged.
Reference/Case No.Date.....
3. To which portion of the compliance order do you object?
4. State your full reason for lodging the objection:

| | | |
|---|-------------|------|
|  labour Department Labour REPUBLIC OF SOUTH AFRICA | PAGE 2 OF 2 | EEA7 |
|---|-------------|------|

Any documentary evidence (or certified copies thereof) that you wish to submit in support of your contention(s) as stated in paragraph 4 should be attached and listed below:

| Number | Title or description of document |
|--------|----------------------------------|
| | |
| | |
| | |
| | |
| | |

Place:.....

Date:.....

.....
Signature of objector / employer

.....
Full name of objector / employer

.....
Designation



ANNEXURE 1

Demographic profile of the national and regional economically active population

WHAT IS THE PURPOSE OF THE DEMOGRAPHIC PROFILE OF THE NATIONAL AND REGIONAL ECONOMICALLY ACTIVE POPULATION AND WHERE TO FIND THEM?

Statistics South Africa provides demographic data using Labour Force Surveys from time to time. The Labour Force Surveys (LFS) that is released at least twice in a year provides statistics on the national and provincial Economically Active Population (EAP) in terms of race and gender. Employers can access this information directly from Statistics South Africa. This information must be used by employers when consulting with employees, conducting an analysis and when preparing and implementing Employment Equity Plans.



ANNEXURE 2: Occupational Levels

| PLEASE READ THIS FIRST ↓ | Equivalent occupational levels | | | | |
|---|--|-------------------------|-------------------------------|------------------------|------------------|
| | Semantic Scale | Paterson | Peromnes | Hay | Castellion |
| <p>WHAT IS THE PURPOSE OF THIS ANNEXURE?</p> <p>Job evaluation or grading systems are used by many organizations to measure jobs according to their content and establish comparative worth between jobs.</p> <p>This annexure provides a table of equivalent occupational levels that may be used by employers when completing the EEA2 and EEA4 forms.</p> <p>INSTRUCTIONS</p> <p>The table indicates the occupational levels within organizations as developed through the use of different job evaluation or grading systems. The table provides equivalent levels from each of these job evaluation systems.</p> <p>Organizations that make use of neither one of the job evaluation systems in this table, nor a customized system linked to one of these, should use the Semantic Scale for guidance in determining occupational levels within the organization.</p> | Top management | F F | 1++ 1+ | | 14 |
| | Senior management | E E UPPER E LOWER | 1 2 3 | 1 2 | 13 |
| | Professionally qualified and experienced specialists and mid-management | D D UPPER D LOWER | 4 5 6 | 3 4 | 12 11 13 |
| | Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents | C C UPPER C LOWER | 7 8 9 10 11 12 | 5 6 6A 7 8 | 9 8 |
| | Semi-skilled and discretionary decision making | B B UPPER B LOWER | 13 14 15 16 | 9 10 11 | 7 6 5 4 |
| | Unskilled and defined decision making | A A | 17 18 19 | 12 13 | 3 2 1 |



ANNEXURE 4: Application for Employment Equity Report

Application for an Employment Equity Report

Affix
Revenue
Stamp

PLEASE READ THIS FIRST



WHAT IS THE PURPOSE OF THIS FORM?

This form contains the format for requesting an employer's Employment Equity Report (Form EEA2) from the Department of Labour. This form is issued in terms of Section 21(6) of the Employment Equity Act, 55 of 1998.

WHO FILLS IN THIS FORM?

The applicant who is requesting this report.

INSTRUCTIONS

Complete this form and mail it to the Employment Equity Registry. Enclose revenue stamp to the value of R15 as well as self-addressed (postage paid) envelope.

SEND TO:

Employment Equity Registry
(Application for EE Report)
Department of Labour
Private Bag X117
Pretoria
0001

Section A: Applicant details:

| | |
|----------------------|--|
| Name and Surname: | |
| ID Number: | |
| Organization: | |
| Address: | |
| Town / City: | |
| Postal Code | |
| Telephone No.: | |
| Fax No: | |
| E-mail Address: | |
| Date of application: | |

Section B: Reason for this request:

| |
|--|
| |
|--|

Section C: Report requested:

| |
|-----------------|
| Employer |
| 1. |