

# NEWS

## Employment Equity Amendment Act 4 of 2022 Set to Take Effect on 1 January 2025



B-BEE



Employment  
Equity



SDF



Skills  
Development

**President Ramaphosa has proclaimed 1 January 2025 as the effective date for the amendments to the Employment Equity Act, 1998 (EEA).**

The amendments will have a big impact on larger designated employers and any employers who want to do business with the State. Once the sectoral targets are finalized, designated employers will need to update their employment equity plans to make sure their targets match the sectoral targets set by the Minister of Employment and Labour.



**The introduction of sectoral targets is the most discussed change.**

Draft rules identifying sectors and suggesting targets for designated groups were shared for public feedback on 12 May 2023 and again on 1 February 2024.

It remains uncertain whether the February 2024 draft will be finalized or replaced with a new version.

Once effective, the Minister of Employment and Labour can identify sectors, consult them, release draft targets for feedback, and finalize sectoral targets. There will be a transitional period for implementing these sectoral targets.

## Key Updates to the Employment Equity Act Amendments

- **The definition of a 'designated employer' has been partly changed:**

Starting from 1 January 2025, an employer will only be considered a designated employer under the EEA's affirmative action rules if it has 50 or more employees. This excludes municipalities, organs of state, or employers designated through a collective agreement. An employer's total annual turnover will no longer be a factor in determining this.

- **Definition of Disabilities:**

The definition has been updated to align with the UN Convention on the Rights of Persons with Disabilities. It now includes individuals with intellectual or sensory impairments that significantly limit their ability to enter or progress in employment.

- **Psychological Testing:**

The role of the Health Professions Council (HPC) in certifying psychological assessments has been removed to address its capacity constraints.

- **Consultation Obligations:**

Designated employers are only required to consult with representative trade unions, not with individual union members.

- **Sectoral Targets:**

The Minister now has the authority to identify national economic sectors and set numerical targets. Designated employers must align their employment equity goals with these targets, and compliance will be assessed based on adherence to them.

- **Submission of Employment Equity Reports:**

The deadline of 1 October for annual reports has been removed. Reports must now be submitted as prescribed, and employers unable to meet the deadline can notify the Director-General with reasons. The previous restriction requiring this notification before August has been removed.

- **Income Differentials:**

These statements will now be submitted to the National Minimum Wage Commission instead of the Employment Conditions Commission.

- **Expanded Labour Inspector Powers:**

Labour inspectors can now request written undertakings for compliance, including the preparation of employment equity plans. Inspectors can also "serve" compliance orders rather than "issue" them.

- **Compliance Certificates for State Contracts:**

Certificates will only be issued if:

-Employers meet applicable sectoral targets or provide a reasonable justification for non-compliance.

-Annual employment equity reports have been submitted.

-No findings of unfair discrimination by the CCMA or courts occurred in the past 12 months.

-No CCMA awards were issued against the employer for failing to pay the national minimum wage in the past 12 months.

### Employer Actions:

Employers should not amend their employment equity plans until the final sectoral targets are published.

Once finalized, employers must consult with employees or trade unions, analyze their workforce, and create or update employment equity plans to align with the new targets. They can then report on these plans.