

EMPLOYMENT ALERT

NEW EMPLOYMENT EQUITY ACT REGULATIONS 2009

The Department of Labour repealed the existing Employment Equity Act Regulations published in August 2006 and replaced the regulations with a new set of General Administrative Regulations as published in the Government Gazette of 14 July 2009 Gazette number 736.

The former General Administrative Regulations have been repealed. The new regulations apply to the reports that employers must submit on or before 1 October 2009. The prescribed forms have been amended and the new forms will have to be submitted.

The previous definitions have been substituted by three new definitions namely that of a large employer which means a designated employer who employs 150 or more employees; small employers who are designated employers who employ fewer than 150 employees and the new concept of temporary employees who are workers who are employed to work for three consecutive months or less.

The regulations have been reorganised under the headings "Duties of a designated employer" and four sections dealing with enforcement.

The duties of a designated employer are:

1. collecting of information and conducting of an analysis
2. preparing and implementing an employment equity plan
3. reporting to the Department
4. informing the employees
5. reporting on the income differentials.

The revised Form EEA1 relating to employees with disabilities now includes a note that people with disabilities have the right to disclose or not to disclose their disability.

The form containing the employer details (Section A of Form EEA2) has also been revised and the question as to whether the employer voluntarily complies with the Act has been omitted. The fine print to Part A of the form has been reduced to seven items. Section B of the form has also been amended. Form EEA2 has generally been revised and employers are well advised to consider and use the new revised form.

The Income Differential Statement (Form EEA4) has been revised and contains detailed instructions as to what must be included and what must be excluded from remuneration.

In the new regulations the detailed description of the occupational categories has been omitted.

Throughout the regulations the concept of "non-permanent employees" has been replaced with the concept of temporary employees.

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