

EMPLOYMENT LAW ALERT

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CLIFFE DEKKER HOFMEYR

INCORPORATING
KIETI LAW LLP, KENYA

IN THIS ISSUE

Promulgation of Employment Equity Amendment Bill Imminent

In May 2022, we brought attention to the Employment Equity Amendment Bill (the Bill), which was passed by Parliament, and consequently in the final stage of promulgation ([see here](#)). The Department of Employment and Labour (the Department) has released a statement indicating that the signing of the Bill by President Cyril Ramaphosa will be taking place anytime within approximately the next four months.



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In May 2022, we brought attention to the Employment Equity Amendment Bill (the Bill), which was passed by Parliament, and consequently in the final stage of promulgation ([see here](#)). The Department of Employment and Labour (the Department) has released a statement indicating that the signing of the Bill by President Cyril Ramaphosa will be taking place anytime within approximately the next four months.

Unless the President has any final moment concerns about the constitutionality of the amendments contained in the Bill, the passage of the Bill and accordingly the amendments to the Employment Equity Act (EEA) will take place shortly with an operational date set, according to the Department, for 1 September 2023.

It is important to reiterate and take note of the more significant amendments that will take place; the first is that small businesses that employ less than 50 employees, irrespective of turnover, will no longer fall within the ambit of the narrowed definition of 'designated employer' and accordingly will not be required to comply with the relevant requirements attached to a designated employer.

The second is that the Minister of Labour (Minister) will be empowered to determine sectoral numerical targets for 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.

To this extent, the amendments have adjusted other sections of the EEA to align with the introduction of this novel requirement. Designated employers will be required to set numerical targets in line with the applicable sectoral targets as set by the Minister. Furthermore, this is required as a prerequisite for the successful procurement of a compliance certificate, which is essential for contracting with the State.

Once the amendments are effective, the Minister is required to publish proposed sectoral numerical targets in the Government Gazette, allowing interested parties at least 30 days to comment on the proposed targets. It is expected that designated employers will need to report on any relevant sectoral targets for the financial year ending 2024 and furnish reasons in the event of not achieving the targets.

The Department of Labour has confirmed that engagements on the setting of sectoral numerical targets began in June 2019 and will conclude by the end of September 2022. To date, most industries have been consulted by the Department, with the balance to take place within the next month. It is essential for designated employers to familiarise themselves with these amendments and consider the extent to which these amendments may affect their business and employment strategies.

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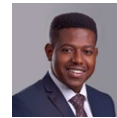
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Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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