

ATTACHMENT

Executive Summary

The Amendment Act

Pres. Ramaphosa has signed the Employment Equity Amendment Act into law on 12 April 2023. This Act empowers the Minister of Employment in terms of section 15A to determine specific sectoral targets which businesses with more than 50 employees must meet.

In short, the Minister can determine what the workforce should look like in a specific sector in a specific province and at a specific job level, based on race, gender and disability.

On 12 May 2023 the Department of Labour published 60 pages of comprehensive regulations that categorise the top four levels in the labour market (skilled, professionally trained, senior management and top management) according to race and gender per province and per sector. The regulations appear to be completely arbitrary, with only the demographics of the economically active population taken into account in the overwhelming number of cases for coloured, white and Indian employees.

These targets entail a major decrease in minority representation as a percentage of the labour market at the top four job levels.

Growth scenario

One option by which the targets can be reached is for the labour market to grow sufficiently to down manage the minorities' relative share in it towards the minister's targets. Calculations made by the Solidarity Research Institute (SRI), using the minister's published targets as well as the Commission for Employment Equity's annual report as source data, indicate that South Africa's economy must grow at a national GDP of approximately 12,3% per year, sustained over the next five years to meet the minister's targets. Given the current economic conditions in South Africa these levels of growth are impossible and unattainable.

Replacement scenario

This leaves a second option in terms of which people would have to vacate their positions in whatever way. Calculations made by the SRI, again using the minister's published targets as well as the Commission for Employment Equity's annual report as source data, indicate that a reduction of approximately 66% of white and Indian employees, as well as a reduction of approximately 25% of coloured employees at the top four job levels will be required to meet the minister's targets.

Basically, two out of three white and Indian employees, and one out of four coloured employees may no longer be represented at the top four job levels to meet the minister's targets. This involves the large-scale replacement of minorities at the top four job levels over the next five years.

Enforcement

The legislation, and consequently the draft regulations apply to any employer with more than 50 employees. Employers doing business in one specific province can choose either the national or the provincial targets. An employer doing business in more than one province must use the national targets.

If an employer does not comply the Department of Labour has sufficient powers to take the employer in question to the Labour Court and possible fines can be imposed. The minimum fine is R1,5 million and the maximum is R2,7 million, or 10% of turnover, whichever is the greater.