

EMPLOYMENT EQUITY – BLITZ INSPECTIONS WITHIN THE WHOLESALE & RETAIL SECTOR

Employment Equity (EE) is by far one of the most challenging and underestimated elements of transformation that South African employers are faced with. It should be assessed and addressed as a high priority, however many organisations underestimate the process of compliance. In a media alert, on the 18 June 2018, the Department of Labour announced that they would be embarking on a blitz inspection targeting organisations within the Wholesale and Retail sector.

This highlights the seriousness with which the Department of Labour (DOL) takes non-compliance with the provisions of the Act and shows that they will not hesitate to bring the maximum penalty against defaulters.

As stated in the EEA, the turnover threshold for designated employers within the Wholesale & Retail Sector is R75 million. The Department will be targeting that organisations either have 50 or more employees and/or have a turnover above the sector classification as stipulated in Schedule 4 of the Act. Such organisations are required to prepare and implement an EE plan that is valid from 1 year to 5 years, and submit EEA2 & EEA4 reports to the DOL annually. The aim is to "redress disparities in employment, eliminate unfair discrimination and promote equality".

Whilst some employers take EE lightly, employers should be aware that submitting their EE Reports on time is crucial, and that this is not enough to ensure full compliance with the requirements of the legislation. Employers are bound to make sure that the contents of the reports are accurate and true with an illustration that they have made sufficient efforts with the progression of affirmative action measures in the staffing of their organisation as required by the EEA.

The planning and implementation of EE is about the fair and equitable representation of the workforce across the various occupational levels from Top Management through to unskilled level, race and gender and importantly about identifying workforce profiles that are aligned with the

regional or national Economically Active population as stated in the Commission for Employment Equity Annual Report.

Through consultation with the EE committee, this can be achieved through the shared vision of what makes business sense through the commitment and implementation of goals and targets as set out in the Employment Equity plan. Doing a detailed EE analysis and setting affirmative action targets that are achievable, but substantial enough to satisfy the Director-General of Labour. More importantly, developing a strategy for recruiting, retaining and developing members of designated groups.

Whilst these requirements are not impossible, it is important to consider that having your EE system set up, based on the internal resources and circumstances makes the task of EE compliance much easier.

If an organisation is found guilty of contravening the EEA, maximum fines imposed will be from R500 000 for a first offender and up to R1 500 000 or 6% of the turnover for multiple offenders. In instances, where an organisation have reported an EE plan, but do not have it or apply it, there will be possible imprisonment. In recent media events, it has also been warned that the DOL would proclaim Section 53 of the EEA to block non-compliant companies from doing business with the state.

With the above said, the Director-General is tasked with policing employers that do not comply and to prosecute those that do not heed the process to implement affirmative action meaningfully. It is clear that prosecutions in the Labour Court and potentially bankrupting fines, can result if employers fail to comply.

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