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# Understanding the Duties of a Designated Employer

## *Both Employment Equity (EE) and Skills Development are important elements that businesses must comply with in terms of statutory and Broad-Based Black Economic Empowerment (B-BBEE) requirements.*

The Employment Equity Act has been in effect since 1998 and is applicable to all designated employers (employers who employ more than 50 people or have an annual turnover equal to or more than a specific industry or sector threshold). The Act requires designated employers to submit Employment Equity Reports and Plans annually to the Department of Labour.

Pursuant to the Act, designated employers must develop and implement their Employment Equity Plan effective for one to five years to address inequalities in employment, eliminate unfair discrimination, and uphold the right to equality.

In a previous article, we outlined the *Employment Equity submission deadlines*; in this article we will review the duties of a Designated Employer in line with the Employment Equity Act.

## What are the duties of a Designated Employer?

According to the Employment Equity Act, an employer deemed as a Designated Employer is obliged to comply with certain duties.

The duties are highlighted as follows:

**- Establish an Employment Equity Committee:**

- Assign and appoint an EE Manager (**appointment letter** must be on file and signed by the CEO & EE Manager)
- Assign and Appoint EE Committee Members (**appointment letter** must be on file and signed by the CEO and EE Committee Member)

**- The Duty of Communication and Awareness:**

- EE Awareness Pamphlet & Internal Training
- Employment Equity Act and Basic Conditions of Employment Equity (Posters)

**- Discuss the Duty to Establish an EE Committee and Keep Minutes of Meetings**

**- Discuss what the Duty of Analysis includes (EEA12)**

**- Discuss the Duty of Compiling an EE Plan (EEA13)**

**- Discuss the Duty to Report (Submission of the EEA2 and EEA4 reports).**

## What are the consequences of non-compliance?

Businesses that fail to comply could potentially face fines of up to R2,7 million or 10% of annual turnover.

The submission of an Employment Equity Report (EER) directly impacts compliance with Broad-Based Black Economic Empowerment (B-BBEE) and therefore failure by an employer to comply**,** will mean that the company is unable to earn any points on the Management and Control element on the B-BBEE scorecard.

# The Draft Employment Equity Regulations

President Ramaphosa has signed the Employment Equity Amendment Act (Act No. 4 of 2022) into law but is yet to determine the effective commencement date.

The new Draft Employment Equity Regulations with proposed Sector Employment Equity targets were published for public comment earlier this year but to date the final regulations have not been published. Until the commencement date is determined, the status quo regarding Employment Equity Reporting will be maintained.

The amended Employment Equity Act requires more than just EE Plans and Reports. It would require a slew of other policies to be implemented in the workplace to reinforce an employer's efforts to comply, or to exonerate failure to comply. Such policies would involve aspects such as recruitment, retirement, training and employment equity, and properly functioning Employment Equity and Training Committees synchronised with Workplace Skills Plans (WSPs).

We encourage our clients and other businesses to *contact us* for specific guidance on how Employment Equity Reporting is likely to affect them in the context of B-BBEE compliance.

SERR Synergy has a team of *professional Skills Development Facilitators (SDF's)* who guide businesses through the process to ensure that equity in your organisation meets the requirements of the Employment Equity Act and supports the growth and success of your business.

We assist with the compilation and submission of their Employment Equity Plans and Reports by acting as SDFs on your behalf.  Our *Skills Development Facilitation and Employment Equity Services* are aimed at businesses that wish to align their employment equity to their strategic corporate objectives.

***About the Author:*** Janine Lensley is a certified Skills Development Facilitator, who obtained her SDF qualification in 2015. She joined SERR Synergy in 2019 and was promoted to Skills Development Facilitator Team Lead in 2021. She uses her Employment Equity expertise to lead her team of SDFs and ensure that all our Designated clients comply with the Employment Equity and Skills Development Acts.