



EMPLOYMENT EQUITY: TO COMPLY OR NOT TO COMPLY - A BASIC GUIDE

Employers often believe that the submission of the yearly report to the Department of Labour on the first working day of October guarantees them compliance with the Employment Equity Act. This is unfortunately not true and these employers could face fines for non compliance.

Who Must Comply?

All 'Designated Employers' must comply.

These individuals are defined as:

1. A person who employs more than 50 employees;
2. A person who employs fewer than 50 employees but has an annual turnover which is equal or above the applicable annual turnover of a small business in terms of Schedule 4 of the EEA; (R5m Construction).
3. A municipality;
4. An organ of state; or
5. An employer bound by a collective agreement which appoints it as a designated employer.

What is compliance?

Compliance in terms of the EEA requires companies to comply with the following:

1. To consult with employees – i.e. the mere election of a committee will not suffice and proof of consultation with employees or their representatives must be presented.
2. To conduct an analysis to identify possible barriers in the workplace, policies or procedures which adversely affect people from designated groups.
3. A designated employer must prepare and implement an Employment Equity plan to achieve employment equity.
4. Employers with more that 150 employees must submit a report to the Department of Labour on an annual basis, and employers with less than 150 employees must submit a report once every two years.
5. Authority and means to perform all EE functions should formally be assigned in writing to the senior manager responsible for employment equity.



6. A copy of the EE plan should be made available to all employees and the relevant Employment equity legislation should be displayed in the workplace.

What will happen if I don't comply?

Financial penalties can range from R100k to R900k and there are proposed amendments to the labour legislation that may result in a

percentage of the company's annual turnover being used to calculate the penalty!

Source: Robert Niemand – of LabourNet

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