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# Understanding the importance of Employment Equity Reporting and Audits

***The Employment Equity Act (EEA) is a law that promotes workplace equality, ensures all employees receive equal opportunities, and mandates fair treatment by employers. This law protects you from unfair treatment and any form of discrimination.***

In this article, we will review the basic elements of Employment Equity reporting and the benefits associated with submitting your Employment Equity Report.

## Who must submit an Employment Equity Report?

All Designated employers must submit an Employment Equity Report to the Department of Labour.

The definition of a *‘Designated employer’* is as follows:

- An employer with 50 or more employees;
- An employer with fewer than 50 employees and who has exceeded the turnover threshold applicable to designated employers;
- A municipality or an employer bound by a collective agreement appointed as a Designated employer;
- An employer who voluntarily wishes to comply with section 14 of the Employment Equity Act (EEA);
- An employer who became newly designated on or after the first day of April, but before the first day of October. Such an employer only needs to submit their first Employment Equity Report in the following year, which in this case would be by 15 January 2025.

Submitting Employment Equity Reports is a legal requirement for companies exceeding specified thresholds. Furthermore, such reports are crucial for BEE scoring and failure to submit them will result in a zero score on the Management Control element during BEE verification.

## What are the benefits of submitting an Employment Equity Report?

- **Legal Compliance:** Ensures compliance with the EEA, thereby avoiding potential penalties imposed by the Department of Labour.
- **Enhanced B-BBEE Scorecards:** Positively impacts your B-BBEE score, improving your overall rating.
- **Reduced Unemployment:** Contributes towards lowering the national unemployment rate by promoting fair access to employment opportunities.
- **Improved Workforce Quality:** Helps to ensure that positions are filled based on merit, thereby enhancing the quality and competence of the workforce.

# How should a company prepare for Employment Equity Audits?

The Department of Labour inspectors randomly conduct audits to ensure that companies comply with the EEA. These are the inspections that normally take place.

**The Department of Labour's Expectations with regard to EE Audits:**

- The company will receive a notification in terms of section 43 of the EEA stating that inspectors will pay them a physical visit, or that they must send documents (DIRECTOR-GENERAL REVIEW ASSESSMENT EEA7).

**Companies will be expected to send information such as the following.**

1. Appointment letter for EE manager as per section 24 of the EEA;
2. Appointment letters for the elected EE Committee;
3. Minutes of the meetings and proof of consultation as per section 16 of the EEA, including meeting agendas and signed attendance registers;
4. EEA12 (Employment Equity analysis) proof of analysis as per section 19 of the EEA;
5. EEA13, copy of the company's EE plan as per section 20 of the EEA;
6. Proof that employees were informed **as required by section 25;**
7. Proof of keeping records as per section 26 of the EEA.

**If the Inspector is not satisfied with the information that was sent in response to the first notice of inspection (DG REVIEW ASSESSMENT), he/she will issue a DIRECTOR-GENERAL RECOMMENDATION.**

- The company will be given 60 days to ensure that everything is corrected according to the DG RECOMMENDATIONS, after which the corrected documents will be assessed again. If the Department of Labour is satisfied with the documentation, they will issue an approval letter; however, the company must ensure that implementation is according to the approved DG recommendations.
- The Department of Labour will continue to monitor the company by issuing a MONITORING REPORT ON THE IMPLEMENTATION OF THE EMPLOYMENT EQUITY PLAN (this usually happens within one to two years after a company's audit documents have been approved).
- The Department of Labour will then check whether–

1. the employer is implementing its approved EE plan as required by section 20(1), with specific focus on the progress made towards implementation of AA measures that were identified to overcome the barriers identified in the EEA13, and whether numerical goals and targets are being met. If not, they will check if there are justifiable reasons for not reaching the relevant targets.
2. the employer has submitted its annual Employment Equity Reports and if they are reporting correctly on the progress made as set out in the EEA13.
3. the employer still complies with all other provisions of EEA.

If the employer does not comply with the Monitoring of implementation notice, the Department of Labour will issue a CONFIRMATORY NOTICE to the employer and the matter will be referred to the Labour Court.

**It is important to note that if a company is found to be non-compliant, fines ranging from R1,5 million or 2% – 10% of your annual turnover could apply.**

*SERR Synergy* has a team of *Skills Development Facilitators* ready to assist businesses that wish to align their EE Reports to their Strategic Objectives. *Our team will also assist companies in the event of any of the above-mentioned EE audits or inspections to ensure compliance with the EEA.*

***About the Author:*** Katlego Nakeli is a certified Skills Development Facilitator who obtained his SDF Qualification in 2012. He joined SERR SYNERGY in 2022 and was promoted to Specialist Skills Development Facilitator in 2023. Katlego uses his experience to ensure that all our Designated clients comply with the Employment Equity Act as well as the Skills Development Act.