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DEPARTMENT OF EMPLOYMENT AND LABOUR

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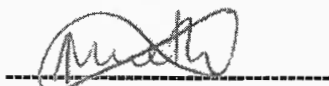
24 July 2026

EMPLOYMENT EQUITY ACT, 1998 (ACT 55 OF 1998 AS AMENDED)**DRAFT REVIEWED CODE OF GOOD PRACTICE ON THE PREPARATION AND
IMPLEMENTATION OF THE EMPLOYMENT EQUITY PLAN**

I, Nomakhosazana Meth, Minister of Employment and Labour in terms of Section 55(1) of the Employment Equity Act, 1998 (Act No 55 of 1998 as amended), and on the advice of the Commission for Employment Equity, hereby publish this notice on the Draft Reviewed Code of Good Practice on the Preparation and Implementation of the Employment Equity Plan for public comment for **60 days** from the date of publication.

All public comment must be in writing and forwarded to:

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MS NOMAKHOSAZANA METH, MP

MINISTER: DEPARTMENT OF EMPLOYMENT AND LABOUR

Date: 29 June 2026

**DRAFT AMENDED CODE OF GOOD PRACTICE ON
THE PREPARATION, IMPLEMENTATION AND
MONITORING OF THE EMPLOYMENT EQUITY PLAN
(EE PLAN)**

TABLE OF CONTENT

DEFINITIONS.....	3
1. OBJECTIVES OF THE CODE	4
2. APPLICATION OF THE CODE	4
3. LEGAL FRAMEWORK	4
4. PURPOSE AND RATIONALE OF THE EE PLAN	5
5. STRUCTURE OF THE EE PLAN	5
6. PROCESS FOR PREPARATION, IMPLEMENTATION AND MONITORING OF AN EE PLAN	5
7. DEVELOPING THE EE PLAN	11
8. REPORTING	16

DEFINITIONS

Department:	Department of Employment and Labour;
Designated employer:	Designated employers are those who employ 50 or more employees. (NB: Employers with 1 to 49 employees are designated if they are an organ of state or if an employer bound by a collective agreement in terms of section 23 or 31 of the Labour Relations Act.
Designated groups:	“Designated groups” mean black people, women and people with disabilities who are citizens of the Republic of South Africa by birth or descent; or became citizens of the Republic of South Africa by naturalization – before 27 April 1994; or after 26 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date but who were precluded by apartheid policies;
Director-General:	Director-General of Department of Employment and Labour;
EAP:	Economically Active Population;
EEA:	Employment Equity Act, 55 of 1998, as Amended;
EE Plan:	Employment Equity Plan as contemplated in section 20 of the Act; and
Sector:	An industry or service or part of any industry or service

1. OBJECTIVES OF THE CODE

- 1.1 This Code provides guidelines to designated employers and their employees on good practice for the preparation, implementation and monitoring of an employment equity plan as required by the Employment Equity Act, No. 55 of 1998 (EEA) as amended, and its Regulations.
- 1.2 It also provides guidelines to employers and employees to consider and apply appropriately to their workplace circumstances.

2. APPLICATION OF THE CODE

This Code applies to all designated employers that are required to, in consultation with representative trade union(s) or its employees, or employee representatives prepare, implement and monitor the EE Plan in terms of the EEA, as amended, and its Regulations.

3. LEGAL FRAMEWORK

- 3.1. This Code is issued in terms of section 54 of the EEA and must be read in conjunction with the Act and other Codes issued in terms of the Act.¹
- 3.2 The Code should also be read in conjunction with the Constitution of the Republic of South Africa, No. 108 of 1996 and all relevant legislation, including the:
 - 3.2.1 Employment Equity Act, No. 55, of 1998;
 - 3.2.2 Employment Equity Amendment Act, No. 47 of 2013;
 - 3.2.3 Employment Equity Amendment Act, No. 4 of 2022;
 - 3.2.4 Employment Equity Regulations of 2025 as amended;
 - 3.2.5 Labour Relations Act, No. 66 of 1995 as amended;
 - 3.2.6 Basic Conditions of Employment Act, No.75 of 1997 as amended;
 - 3.2.7 National Minimum Wage Act, No. 9 of 2018;

¹Code of Good Practice on the Integration of Employment Equity into Human Resources Policies and Practices; Code of Good Practice on the Employment of Persons with Disabilities; Code of Good Practice on HIV and AIDS and the World of Work; Code of Good Practice on Equal Pay/Remuneration for Work of Equal Value and Code of Good Practice on the Prevention and Elimination of Harassment in the Workplace.

3.2.8 Skills Development Act, No. 97 of 1998 as amended;

3.2.9 Employment Services Act, Act No. 4 of 2014 as amended;

3.2.10 Promotion of Equality and Prevention of Unfair Discrimination Act, No. 4 of 2000 as amended; and

3.2.11 Broad Based Black Economic Empowerment Act, No. 53 of 2003 as amended.

4. PURPOSE AND RATIONALE OF THE EE PLAN

4.1 The EE Plan is a designated employer's implementation programme to achieve equitable representation and fair treatment of the designated groups (i.e. Black people, women and persons with disabilities) in the workplace across all occupational levels.

4.2 The EE Plan addresses the barriers to fair employment policies, practices and procedures, identified in the employment equity analysis process; and implements remedial measures in the workplace within set time frames.

5. STRUCTURE OF THE EE PLAN

5.1 The EE Plan must meet all the requirements of Section 20 of the EEA, as amended.

5.2 The EE Plan must be developed using the EEA13 template contained in the Employment Equity Regulations, as amended.

5.3 The EE Plan must be informed by the analysis (EEA12) and as a minimum contain all the information required by EEA13 template in the Employment Equity Regulations.

6. PROCESS FOR PREPARATION, IMPLEMENTATION AND MONITORING OF AN EE PLAN

a) The development of an EE Plan must be an inclusive process that involves consultation and is informed by:

- i) analysis of the policies, practices and procedures;
- ii) an analysis of the workforce; and
- iii) analysis of the work environment, including diversity management experience.

b) Three phases are usually involved in relation to the EE Plan, i.e. the preparation phase, the implementation phase and the monitoring phase.

6.1 PREPARATION PHASE

6.1.1 INITIATOR TO STEER THE PROCESS, INCLUDING THE ASSIGNMENT OF ONE OR MORE SENIOR MANAGERS

- a) As soon as an employer becomes designated, that employer must initiate and facilitate a process for the preparation of an EE Plan.
- b) A designated employer must initiate and steer the process for the preparation of an EE Plan, which could be assigning such responsibility to a permanent employee that reports directly to the Chief Executive Officer ² (CEO) / Accounting Officer.
- c) Notwithstanding the CEO / Accounting Officer is deemed to be the accounting officer for the implementation of the Act, the board may nevertheless agree on employment equity outcomes for the CEO / Accounting Officer.
- d) The CEO / Accounting Officer may, depending on the size of the organisation, assume or assign the responsibility for initiating the process for the development, implementation and monitoring of the EE Plan to one or more senior managers.
- e) One or more senior managers who are assigned the responsibility for the implementation and monitoring of EE Plans should be included from the preparation phase of the process.
- f) A designated employer must -
 - i. provide the assigned senior managers with the necessary authority and means, such as an appropriate budget, to perform their allocated functions; and
 - ii. take reasonable steps to ensure that these assigned senior managers perform their allocated functions by incorporating key employment equity outcomes in their performance contracts.

6.1.2 COMMUNICATION, AWARENESS AND CONSULTATION

When communicating on matters concerning employment equity, it is important to ensure that the content is communicated in clear and easily understood language to provide the entire workforce reasonable opportunity to grasp the content and subsequent rights.

6.1.2.1 All employees should be made aware and informed of –

² The CEO is the accounting officer who could also be a Director General, Municipal Manager, etc.

- a) The purpose, content and application of the EEA, its Regulations and Codes of Good Practice in preparation for their participation, including consultation.
- b) Matters relating to the identification, prohibition and elimination of unfair discrimination and affirmative action to achieve equality and diversity in the workplace.
- c) The proposed process to be followed by the designated employer.
- d) The advantages to employees for participation in the process.
- e) The need for the involvement of all stakeholders in order to promote positive outcomes.

6.1.2.2 Designated employers must consult with employees, both from designated and non-designated groups at all occupational levels in the organization, when conducting an analysis, preparing and implementing a plan and when submitting employment equity reports to the Department of Employment and Labour.

6.1.2.3 Managers should be informed of their obligations in terms of the EEA, and training should be provided to them where particular skills do not exist, e.g. diversity management, coaching and mentoring.

6.1.2.4 Communication on employment equity should focus on positive outcomes, including the better utilization of all of the employer's human resources and the creation of an inclusive, diverse and more productive workforce.

6.1.2.5 Where a representative trade union, or employees, or employee representative refuses to take part in the consultation process, the employer should record the circumstances in writing and a copy of this document should be provided to the representative trade union, or employee, or employee representative concerned.

6.1.2.6 Consultation must commence as early as possible and should involve:

- a) A designated employer establishing a consultative forum or using an existing forum to consult with the representative trade union(s), or employees, or representatives of employees on employment equity matters.
- b) Representative trade union(s), or employees, or representatives of employees must reflect the interests of employees from both designated and non-designated groups, and across all occupational levels of the workforce.
- c) A designated employer should be represented by one or more members of senior management in the forum.
- d) An agreement on the composition of the forum and how it should be constituted and rules governing the work of the forum.
- e) Members of the EE forum must be trained and capacitated on their roles and responsibilities.

6.1.2.7 Consultation must include-

- a) Reasonable opportunity for representative trade union(s), or employees, or employee representatives to meet with the designated employer to consult on the

conducting of an analysis, development of an EE plan and the submission of reports to the Department of Employment and Labour.

- b) The opportunity for both designated employer and representative trade union(s), or employees or employee representatives to provide feedback to their respective constituencies.
- c) The request, receipt and consideration of relevant information.
- d) Representatives trade unions, or employees or employee representatives must be allowed time to effectively participate in the consultation process.

6.1.2.8 Regular (at least quarterly), structured and scheduled meetings must be held and the deliberations properly recorded to ensure a constructive and well-informed process.

6.1.3 CONDUCTING AN ANALYSIS (*contained in EEA12 in the EE Regulations*)

A designated employer must conduct an analysis as required by section 19 of the EEA by reviewing its workforce profile; and employment policies, practices, procedures; and the working environment in order to identify employment barriers, which adversely affect people from the designated groups from being equitably represented across all occupational levels, and the outcome of the analysis must be reported using the **EEA12** template.

6.1.3.1 Purpose of the analysis

- a) To determine the extent of under-representation or over-representation of employees, i.e. both permanent and temporary³ workers, from the designated groups in the different occupational levels of the employer's workforce in terms of race, gender and disability.
- b) To assess all employment policies, practices and procedures, and the working environment in order to –
 - (i) Identify any barriers that may contribute to the under-representation of suitably qualified employees from the designated groups;
 - (ii) Identify any barriers or factors that may contribute to the lack of inclusion and affirmation of diversity in the workplace;
 - (iii) Identify any other employment conditions that may adversely affect the designated groups; and

³ Section 57 of the Act states:

- (1) For purposes of Chapter III of this Act, a person whose services have been procured for, or provided to, a client by a temporary employment service is deemed to be the employee of that client, where that person's employment with the client is of indefinite duration or for a period three months or longer.
- (2) Where a temporary employment service, on the express or implied instruction of a client, commits an act of unfair discrimination, both the temporary employment service and the client are jointly and severally liable

- (iv) Identify practices or factors that positively promote employment equity and diversity in the workplace, including reasonable accommodation.

6.1.3.2 Workforce profile

- a) The first step in conducting an analysis of the workforce profile is to differentiate between employees of the various groups, both in terms of the designated groups (i.e. Black people, women and persons with disabilities) and non-designated groups by using the EEA1 form contained in the EE Regulations, to determine the population group, gender and disability status.
- b) Where an employee refuses to complete the **EEA1** form or provides inaccurate information, the employer may establish the designation of an employee by using reliable historical and existing data, and persons with disabilities have the right not to declare their disability.
- c) When conducting an analysis, a designated employer must determine the under-representation or over representation of both the designated and non-designated groups using up-to-date demographic data in terms of the Economically Active Population (EAP) and the Sector EE targets as required by section 15A of the EE Amendment Act of 2022, across the various occupational levels, as guided by the EEA8 and the EEA9 in the EE Regulations.
- d) The analysis of the workforce profile must be based on a snapshot taken on a particular date for each of the occupational levels in terms of the population group, gender and disability.
- e) The under-representation or over-representation of a particular group, whether designated or non-designated, must be captured in the analysis and used to inform and prioritize strategies in the EE plan to address the under-representation in relation to the sector EE targets and the applicable EAP for each population group, gender and disability.
- f) Recruitment strategies may vary depending upon the level of responsibility and the degree of specialization of the occupation, usually the higher the degree of responsibility or specialization required for the job, the broader the recruitment strategy.

- g) In addition to the factors listed above, a designated employer may take into account any of the following to the extent that they are consistent with the purpose of the Act –
- i. the inherent requirements of a particular job;
 - ii. the pool of suitably qualified persons;
 - iii. the formal qualifications, prior learning, relevant experience or capacity to acquire, within a reasonable time, the ability to do the job, as contemplated in sections 20(3) to (5) of the Act;
 - iv. the rate of turnover and natural attrition within the workplace; and
 - v. the recruitment and promotional trends within a workplace.

6.1.3.3 Review of employment policies, practices, procedures, and working environment

The review should include a critical examination of all established policies, practices, procedures and the working environment to identify barriers that directly or indirectly impede one or more of the designated groups' equitable representation in the workplace, including those relating to -

- a) Recruitment, selection, pre-employment testing and induction, promotion, development and retention.
- b) Succession and experience planning, promotions and transfers.
- c) Job assignments and training opportunities.
- d) Performance and remuneration, including equal pay for work of equal value⁴.

⁴ Section 16 (3) (4) (5) of the LRA states that:

Subject to subsection (5), whenever an employer is consulting or bargaining with a representative trade union, the employer must disclose to the representative trade union all relevant information that will allow the representative trade union to engage effectively in consultation or collective bargaining. The employer must notify the trade union representative or the representative trade union in writing if any information disclosed in terms of subsection (2) or (3) is confidential. An employer is not required to disclose information that is legally privileged;

- (a) that the employer cannot disclose without contravening a prohibition imposed on the employer by any law or order of any court;
- (b) that is confidential and, if disclosed, may cause substantial harm to an employee or the employer; or
- (c) that is private personal information relating to an employee, unless that employee consents to the disclosure of that information.

If there is a dispute about what information is required to be disclosed in terms of this section, any party to the dispute may refer the dispute in writing to the Commission.

- e) Discipline and dispute resolution.
- f) Working conditions, including the accommodation of cultural, religious and other diversity differences.
- g) Reasonable accommodation, including for persons with disabilities.
- h) Corporate culture.
- i) Any other policy, practice or procedure that may arise from the consultation process.

7. DEVELOPING THE EE PLAN

The employer must consult and attempt to reach consensus on the development of the EE Plan (EEA13) by taking the following into account-

- a) Analysis report (EEA12).
- b) National and Provincial Economically Active Population (EAP).
- c) 5-years Sector EE targets.
- d) Determining the duration of the EE Plan.
- e) Determining the annual objectives of the EE Plan.
- f) Corrective measures/ Affirmative Action measures, including numerical goals and annual EE targets.
- g) Time frames established.
- h) The EE Plan drawn up in terms of section 20 of the Act.
- i) Resources identified and allocated for the implementation of the EE Plan.
- j) The EE Plan communication.

7.1 Analysis Report

7.1.1 An employer must consult and attempt to reach reasonable consensus on the under-representation of the designated groups and the barriers they identified in the analysis report. The analysis report must be used to prioritize the targeted designated groups in accordance with their representation.

7.1.2 The analysis report must be used to determine and inform the affirmative action measures, including strategies, which would be included in the EE Plan as a response to barriers identified in policies, practices and procedures.

7.2 Duration of EE Plan

An employer should take the following into consideration when determining the duration of an EE Plan:

- a) the EE Plan must not be shorter than one year and not longer than five years.
- b) workforce size.
- c) nature and location of the workplace, including geographic spread.

- d) the time needed to implement affirmative action measures to achieve numerical and non-numerical goals as outlined in the EE Plan.
- e) the start and end date of the EE Plan must be specific in terms of the day, month and the year.
- f) An employer's business/ strategic plan.

7.3 Objectives of the EE Plan

In determining the annual objectives for the EE Plan, the following must be taken into account:

- a) The purpose or overall objective of the Act is to achieve equitable representation of the designated groups in the workplace that is free from unfair discrimination.
- b) The objectives in the EE Plan must be specific, measurable, achievable, relevant and time bound (SMART).
- c) Broader objectives of the business.
- d) Prioritizing and resource availability and allocation.

7.4 Numerical goals and numerical targets

- a) **Numerical goals** are the entire workforce profile in terms of population group, gender and disability, and **not** the difference between the current workforce profile and the projected workforce profile the designated employer seeks to achieve at the end of the employment equity plan (EE Plan).
- b) The **numerical EE targets** are the entire workforce profile in terms of race, gender and disability, and **not** the difference between the current workforce profile and the projected workforce profile the designated employer seeks to achieve by the next reporting period.
- c) The numerical goals and the annual numerical targets must be informed by the outcome of the analysis and prioritized and weighted more towards the designated groups that are most under-represented in terms of the national and provincial economically active population, in terms of section 42 of the EEA.
- d) Planned vacancies and natural attrition (such as resignations, promotions and terminations) must be taken into consideration when determining numerical goals and annual EE targets.
- e) The 5-year sectoral numerical EE targets set in terms of section 15A(2) of the EEA are key milestones towards achieving the equitable representation of the different designated groups within the four upper occupational levels in a designated employer's workforce in relation to the demographics of the applicable EAP, and for persons with disabilities.
- f) Designated employers must set numerical goals and annual EE targets at the semi-skilled and unskilled occupational levels in their EE Plans in terms of Section 20(2) of the EEA, taking into account the applicable EAP.

- g) A designated employer that has already exceeded the 5-year sector numerical EE targets, should continue to set annual EE targets towards achieving the EAP for any of the designated groups.
- h) A designated employer must avoid perpetuating the over-representation of any group if their representation exceeds the applicable EAP in a particular occupational level.
- i) A designated employer must –
 - i. comply with the numerical EE targets set in terms of section 15A(3) for the economic sector in which they operate;
 - ii. refer to the Ministerial notice issued in terms of section 15A and **EEA17** in the Regulations to determine the sector they operate in; and
 - iii. if it operates in more than one sector, apply the numerical EE targets for the sector in which the majority of their employees are engaged.

7.5 Affirmative action measures

7.5.1 A designated employer must implement affirmative action measures in response to barriers identified in the analysis report (EEA12) to ensure that suitably qualified people from the designated groups have equal employment opportunities and are equitably represented in all occupational levels in the workforce, including:

- (a) measures to identify and eliminate employment barriers that adversely affect people from the designated groups, directly or indirectly.
- (b) measures to further diversity and the management of diversity in the workplace.
- (c) reasonable accommodation for suitably qualified people from the designated groups, including for persons with disabilities.
- (d) measures to recruit, promote, retain and develop people from the designated groups, including succession planning, skills development and skills transfer.
- (e) measures that include preferential treatment, numerical goals and measures other than numerical goals, but exclude quotas or the creation of absolute barriers.

7.5.2 All corrective measures to eliminate any barriers identified during the analysis must be specified in the EE Plan.

7.6 Consensus

- a) The designated employer must consult and attempt to reach consensus on the annual objectives and corrective measures contained in the EE Plan.
- b) Where consensus is not reached on a particular item in the EE Plan, the reasons related thereto must be recorded and attempts must be made to resolve them through the dispute resolution mechanisms outlined in the EE Plan.

7.7 Resources

Resources must be appropriately allocated, including human resources, financial resources and material resources.

7.8 Assignment of responsibility

The person in the workforce, including senior managers, responsible for preparation, implementation and monitoring of the EE Plan must take into account:

- a) The size of the organization.
- b) Line functions.
- c) Geographic location and spread.
- d) Feedback requirements.
- e) Responsibility and authority of the person.

7.9 Dispute Resolution

- a) Internal procedures for resolving any dispute about the interpretation and implementation of the EE Plan should be agreed and specified in the EE Plan.
- b) The last point of call for the resolving of any disputes about the interpretation and implementation of the EE Plan should be the Chief Executive Officer (CEO) / Accounting Officer of the organization.
- c) Existing dispute resolution procedures could be used or tailored to resolve disputes concerning the interpretation and implementation of the EE Plan.
- d) Where a dispute still remains after the internal dispute resolution processes were followed, a party to the dispute may make an application to the Commission for Conciliation, Mediation and Arbitration (CCMA) or the Labour Court.
- e) Procedures must be time-bound, cost effective and simple for designated and non-designated employees to follow.

7.10 Monitoring of the EE Plan

- a) designated employer must assign one or more senior managers to take responsibility for the implementation and monitoring of the EE Plan and take steps to ensure that the managers perform their functions adequately.
- b) The person(s) responsible for the monitoring of the EE Plan and the process to be followed, including the CEO / Accounting Officer and the Board, must be outlined in the EE Plan.
- c) Regular meetings must be held and records of progress reports must be kept to effectively monitor and evaluate the implementation of the EE Plan, which where applicable should include the CEO / Accounting Officer and the Board.
- d) Indicators for the monitoring of the EE Plan must be predefined and agreed upon prior to the implementation of the EE Plan.

- e) The outcome of the monitoring process must inform strategies to strengthen the implementation of the EE Plan and for the preparation of successive plans to start at least six months prior to the expiry of the current EE Plan.
- f) An EE Plan may only be reviewed due to major changes or restructuring in an organisation during the duration of the current EE Plan.
- g) The disclosure of relevant information by designated employers is vital for the successful implementation of the EE Plan, which should include-
 - i. the extent to which suitably qualified people from and amongst the different designated groups are equitably represented within each occupational level in that employer's workforce in relation to the demographic profile of the national and regional (provincial) economically active population.
 - ii. steps taken by a designated employer to train suitably qualified people from the designated groups.
 - iii. steps to be taken by a designated employer to recruit and promote persons from the designated groups to implement its EE Plan.
 - iv. the extent to which the designated employer has made progress in eliminating employment barriers that adversely affect people from the designated groups.
 - v. steps taken by a designated employer to appoint and retain suitably qualified people from the designated groups.
 - vi. steps taken by the designated employer to provide reasonable accommodation for suitably qualified people from the designated groups.
 - vii. All progress reports involving the monitoring of the EE plans must be discussed in the consultative forum of the designated employer.

7.11 Communication

Communication of the EE Plan must be informed by a communication strategy that takes the following into account:

- a) The mechanisms available to communicate, including print and electronic.
- b) Various ways to communicate with different target groups, e.g. persons with disabilities.
- c) The content of the EE Plan.
- d) The persons responsible for the preparation, implementation and monitoring of the EE Plan.
- e) The manner in which disputes on the implementation and interpretation of the EE Plan would be managed.
- f) Availability and accessibility of the EE Plan, including to persons with disabilities.

8. REPORTING

A designated employer must submit a report to the Director-General in terms of section 21 of the Act annually—

- (a) by hand delivery of a completed **EEA2** form as specified in regulation 10(2) together with the **EEA4** form in terms of regulation 12; or
- (b) electronically by using the online reporting system available on the Department's website: www.labour.gov.za.
- (c) The designated employer must consult with its representative trade union or employees, or employee representative or through established forum(s) prior to submitting their EE Report to the Department of Employment and Labour.
- (d) The EE Report must be used as a monitoring and evaluation tool to inform future implementation strategies and the preparation of successive plans.
- (e) EE Reports must reflect the progress made against the employer's current EE Plan.
- (f) EE Reports must be completed by designated employers using the EEA2 and EEA4 forms contained in the Regulations.
- (g) A designated employer may not be issued with a certificate of compliance in terms of section 53(2) of the Act unless, it has submitted a compliant report in the preceding year.
- (h) A designated employer will not be assessed for compliance with its annual EE targets in the first report submitted after becoming a designated employer.
- (i) Public companies must include their workforce profile in their financial report using the EEA10 form format contained in the EE Regulations.
- (j) When a designated employer within any organ of state has produced a report in terms of section 21 of the Act, the Minister responsible for that employer must table the report in Parliament using the EEA10 format contained in the EE Regulations.

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