



REPUBLIC OF SOUTH AFRICA

Government Gazette

Regulation Gazette No. 6674

Vol. 413

PRETORIA, 23 NOVEMBER 1999

No. 20626

DEPARTMENT OF LABOUR

EMPLOYMENT EQUITY ACT, 1998.

COMMENCEMENT NOTICE, REGULATIONS AND CODE

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

Prevention is the cure

**AIDS
HELPLINE**

0800 012 322

DEPARTMENT OF HEALTH

PROCLAMATION*by the**President of the Republic of South Africa***No. R. 115, 1999****COMMENCEMENT OF THE EMPLOYMENT EQUITY ACT, 1998 (ACT NO. 55 OF 1998)**

In terms of Section 65 of the Employment Equity Act, 1998 (Act No. 55 of 1998) I hereby determine that Chapter III and sections 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 58, 65 of the Act and Schedules 1 and 4 shall come into operation on 1 December 1999.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria (place) this Eleventh day of November One thousand Nine hundred and Ninety-nine.

T. M. MBEKI**PRESIDENT**

By order of the President-in-Cabinet

M. M. S. MDLADLANA**MINISTER OF THE CABINET**

XITIVISO*hi****Presidente wa Riphablike ra Afrika-Dzonga*****No. R. 115, 1999****KU SUNGULA KU TIRHA KA NAWU WA NDZINGANO WA NTIRHO, 1998, (NAWU NO 55 WA 1998)**

Hi ku landza xiyenge xa 65 xa Nawu wa Ndzingano wa Ntirho, 1998 (Nawu NO 55 wa 1998) ndzi boha leswaku Kavanyisa ka III xikanwe ni swiyenge swa 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 58, 65, Switandzhaku 1 na 4 swi ta sungula ku tirha hi siku ra 01 N'wendzambahala 1999.

Nyiketiwile ehansi ka Voko ra mina na Xigandlu xa Riphabliki ra Afrika-Dzonga e Pitori (ndhawu) hi siku ra 11 ra Hukuri (n'hwet) Khume kaye Makume kaye-kaye.

T. M. MBEKI
PRESIDENTE

Hi ku landza xileriso xa Presidente loyi a nga eKhabinete

M. M. S. MDLADLANA
HOLOBYE WA KHABINETE

*Employment Equity Regulations***GOVERNMENT NOTICE****DEPARTMENT OF LABOUR****No. R. 1360****23 November 1999****REGULATIONS****EMPLOYMENT EQUITY ACT, 1998 (ACT NO. 55 of 1998)**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, under Section 55 of the Employment Equity Act, 1998 (Act No. 55 of 1998), and on the advice of the Commission for Employment Equity, hereby make the regulations set out in the Schedule, which are to be effective from 01 December 1999.

MMS MDLADLANA
MINISTER OF LABOUR

No. R. 1360**23 Hukuri 1999****SWINAWANA****NAWU WA NDZINGANO WA NTIRHO, 1998 (NAWU NO. 55 wa 1998)**

Mina, Membathisi Mphumzi Shepherd Mdladlana, Holobyé wa Mintirho, hi ku landzelela ka Xiyenge xa 55 xa Nawu wa Ndzingano wa Ntirho, 1998 (Nawu No. 55 wa 1998), na hi ku tsundzuxiwa hi Khomixini ya Ndzingano wa Vuthori/Ntirho, ndzi boha leswaku Swinawana swi andlariwa eka Xitandzhaku, leswi swi nga ta sungula ku tirha hi 01 Nwe'ndzambahala 1999.

MMS MDLADLANA
HOLOBYE WA MINTIRHO

Employment Equity Regulations

SCHEDULE

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*Employment Equity Regulations***Definitions**

1. In these regulations any expression that is defined in the Employment Equity Act, 1998, has that meaning and unless the context otherwise indicates –

(a) **“Director-General”** as it appears in sections 14 and 21 of the Act, means the Director-General of Labour, Employment Equity Registry, Department of Labour, Private Bag X117, Pretoria, 0001;

(b) **“Director-General”** as it appears in sections 34, 37, 39, 40, 42, 43, 44 and 45 of the Act, means the Provincial Director of the Department of Labour –

(i) in the province of **KwaZulu/Natal**, the Provincial Director, Department of Labour, P O Box 940, Durban, 4000, Tel (031) 336 1500, Fax (031) 307 6882;

(ii) in the province of the **Northern Cape**, the Provincial Director, Department of Labour, Private Bag X5002, Kimberley, 8300, Tel (053) 838 1500, Fax (053) 832 4798;

(iii) in the **Northern Province**, the Provincial Director, Department of Labour, Private Bag X9368, Pietersburg, 0700, Tel (015) 290 1744, Fax (015) 290 1670;

(iv) in the province of **North-West**, the Provincial Director, Department of Labour, Private Bag X2040, Mmabatho, 2735, Tel (018) 384 2033, Fax (018) 384 2597;

(v) in the province of **Eastern Cape**, the Provincial Director, Department of Labour, Private Bag X9005, East London, 5200, Tel (043) 701 3000, Fax (043) 743 9719;

(vi) in the province of **Mpumalanga**, the Provincial Director, Department of Labour, Private Bag X7263, Witbank, 1035, Tel (013) 655 8700, Fax (013) 690 2622;

(vii) in the province of the **Free State**, the Provincial Director, Department of Labour, P O Box 522, Bloemfontein, 9300, Tel (051) 430 3001, Fax (051) 447 9353;

(viii) in the province of **Gauteng**:

Gauteng-South: in the Magisterial Districts of Alberton, Boksburg, Brakpan, Germiston, Heidelberg, Johannesburg, Kempton Park, Oberholzer, Randburg, Roodepoort, Vanderbijlpark, Vereeniging and Westonaria, the Provincial Director, Department of Labour, P O Box 4560, Johannesburg, 2000, Tel (011) 497 3000, Fax (011) 834 1081;

Gauteng-North: in the Magisterial Districts of Benoni, Bronkhorstspuit, Cullinan, Krugersdorp, Nigel, Pretoria, Randfontein, Soshanguve1, Soshanguve 2, Springs and Wonderboom, the Provincial Director, Department of Labour, P O Box 393, Pretoria, 0001, Tel (012) 309 5000, Fax (012) 323 5449;

Employment Equity Regulations

(ix) in the province of the **Western Cape**, the Provincial Director, Department of Labour, P O Box 872, Cape Town, 8000, Tel (021) 460 5911, Fax (021) 465 7318;

(c) "**the Act**" means the Employment Equity Act, 1998 (Act No. 55 of 1998).

Collecting information and conducting an analysis (Section 19 of the Act)

2. (1) When a designated employer collects information about individual employees for the purposes of compiling a workforce profile to determine the degree to which employees from designated groups might be underrepresented, the employer must either –
 - (a) request each employee in the workforce to complete, on a voluntary basis, a declaration that must be in the form of EEA 1 or contain the information required by that form; or
 - (b) use existing dependable records of the employer, containing the information required by form EEA1.
- (2) If the designated employer uses form EEA1, all employees who complete the form must at any time be able to make changes to the form at their request.
- (3) If the designated employer elects to use a source of information referred to in subregulation (1)(b), each employee has the right to verify any information relating to that employee, and to request that changes be made to that information.
- (4) A designated employer may use section B of form EEA 2 to develop the workforce profile of the employer's employees as required by section 19(2) of the Act.
- (5) When a designated employer conducts the analysis required by section 19(1) of the Act, the employer may refer to –
 - (a) EEA8 Annexure 1, for the recording of demographic data;
 - (b) EEA9 Annexure 2, which contains a definition of occupational levels; and
 - (c) EEA10 Annexure 3, which contains a definition of occupational categories.
- (6) A designated employer may refer to the **Code of Good Practice: Preparation, Implementation and Monitoring of Employment Equity Plans** as a guide when collecting information and conducting the analysis required by section 19 of the Act.

*Employment Equity Regulations***Duty to prepare and implement an employment equity plan (Section 20 of the Act)**

3. (1) A designated employer may refer to the **Code of Good Practice: Preparation, Implementation and Monitoring of Employment Equity Plans** when preparing the employment equity plan required by section 20 of the Act.
- (2) A designated employer must retain the employment equity plan for a period of three years after the expiry of the plan, unless the employer employs fewer than 150 employees, in which case the plan must be retained for two years.
- (3) The employment equity plan must contain a description of the measures taken by the designated employer to ensure non-discrimination in relation to HIV/AIDS in that employer's workplace.
- (4) 'A workplace' means the place or places where the employees of an employer work. If an employer carries on or conducts two or more operations that are independent of one another by reason of their size, function, or organisation, the place or places where employees work in connection with each independent operation, constitutes the workplace for that operation.

Duty to report (Section 21 of the Act)

4. (1) Each designated employer must submit a report in terms of section 21 of the Act, which must be in the form of EEA 2 or contain the information required by that form.
- (2) A designated employer whose operations extend across different geographical areas, functional units, workplaces or industry sectors may elect to submit a consolidated or separate report for each of these.
- (3) A designated employer must retain a copy of the report for a period of three years after it has been submitted to the Director-General, unless the employer employs fewer than 150 employees, in which case the report must be retained for two years.

Duty to inform (Section 25 of the Act)

5. (1) Each employer must display the notice required by section 25(1) of the Act in the form of EEA 3, in all the official languages spoken in that employer's workplace.
- (2) If there are employees in the workplace who are unable to read this notice, the employer must inform those employees verbally about the provisions of the Act.

Employment Equity Regulations

- (3) The notice referred to in sub-regulation (1) is annexed in the following forms, each in the official language as indicated:

EEA 3	English
EEA 3A	Xitsonga

Income Differentials (Section 27 of the Act)

6. (1) Each designated employer must submit a statement of income differentials required by section 27 of the Act in the form of EEA 4, or in a document that contains the information required by that form.
- (2) When completing the statement, designated employers may refer to EEA 10 for a definition of occupational categories.
- (3) Designated employers must submit the statement to: Employment Conditions Commission, c/o Employment Equity Registry, Department of Labour, Private Bag X117, Pretoria, 0001.
- (4) Designated employers must retain a copy of the statement for a period of three years after it has been submitted to the Employment Conditions Commission, unless the employer employs fewer than 150 employees, in which case the statement must be retained for two years.

Proof of submission

7. (1) Whenever a person is required to satisfy any other person that a copy of any document required or prescribed by the Act or these regulations has been submitted to another party, that person may do so by providing –
- (a) a copy of the proof of mailing the document by registered post to the other party;
 - (b) a copy of the telegram, telex, telefax or e-mail, including proof of transmission, communicating the document to the other party;
 - (c) a copy of a receipt signed by the other party or on that party's behalf if the document was delivered by hand; or
 - (d) a statement confirming delivery signed by the person who delivered the document.

*Employment Equity Regulations***Enforcement (Chapter 5 of the Act)****8. (1) Securing an undertaking (Section 36 of the Act)**

Any undertaking secured by a labour inspector in terms of Section 36 of the Act must be in the form of EEA 5 or contain the information required by that form.

(2) Compliance order (Section 37 of the Act)

A compliance order issued by a labour inspector under Section 37 of the Act must be in the form of EEA 6 or contain the information required by that form.

(3) Objections to a compliance order (Section 39 of the Act)

- (a) An objection lodged by a designated employer under Section 39 of the Act must be in the form of EEA 7 or contain the information required by that form.
- (b) The objection must be lodged with the Provincial Director at any provincial office of the Department of Labour listed in regulation 1(b).

Declaration of designated group for the Employment Equity Act

EEA 1

DEPARTMENT OF LABOUR
(Confidential)



Declaration by employee

Employment Equity Act
55 of 1998, Regulation 2(2)

PLEASE READ THIS FIRST



WHAT IS THE PURPOSE
OF THIS FORM?

This form can be used to obtain information from employees, on a voluntary basis only; for the purpose of assisting employers with conducting an analysis on the workforce profile; and to ascertain which of the existing employees are from designated groups in terms of the Employment Equity Act, 55 of 1998.

WHO FILLS IN THIS FORM?

Employees.

INSTRUCTIONS

The contents of the form shall remain confidential, and shall only be used by employers in order to ensure compliance with the Act.

'People with disabilities' are defined in the Act as people who have long-term or recurring physical or mental impairment which substantially limits their prospects of entering into, or advancement in, employment.

1. Name: _____

2. Employee No: _____

3. Please indicate to which categories you belong:

Male	<input type="checkbox"/>	Female	<input type="checkbox"/>				
African	<input type="checkbox"/>	Coloured	<input type="checkbox"/>	Indian	<input type="checkbox"/>	White	<input type="checkbox"/>
Person with a disability: Yes		<input type="checkbox"/>	No		<input type="checkbox"/>		
If yes, specify nature of disability: _____							

4. I verify that the above information is true and correct.

Signed: _____
(Employee)

Date: _____

Employment Equity Report

DEPARTMENT OF LABOUR



EEA 2

Employment Equity Report

Page: 1 of 12

Employment Equity Act
55 of 1998, Section 21

PLEASE READ THIS FIRST



WHAT IS THE PURPOSE OF THIS FORM?

This form contains the format for employment equity reporting to the Department of Labour. The form incorporates the reporting requirements for designated employers, both smaller (less than 150 employees) and larger (150 or more employees). The form also contains the progress report to be completed after the first round of reporting.

WHO COMPLETES THIS FORM?

All designated employers that have to submit a report in terms of the Employment Equity Act, 55 of 1998. Any employer completing the Employment Equity Report voluntarily.

INSTRUCTIONS

A designated employer that employs 150 or more employees must:

- Submit the first report by 1 June 2000, and thereafter annually on the first working day of October, starting in 2001.
- Complete all sections of this form, except for section G (progress) in the first report.
- Complete all sections of this form, including section G, in subsequent reports.

A designated employer that employs less than 150 employees must:

- Submit its first report by 1 December 2000, and thereafter every second year on the first working day of October, starting in 2002.
- Complete sections A, B, F and H in the first report.
- Complete sections A, B, F, G and H in subsequent reports.
- Complete question 8.2 (termination categories) in all reports.
- Optionally complete sections C, D and E in all reports.

SEND TO:

Employment Equity Registry
The Department of Labour
Private Bag X117
Pretoria 0001
Telephone: 012 3094000
Facsimile: 012 3202059 / 3220413
e-mail: ee@labour.gov.za

Section A: Employer Details

Employer:	
Registration No:	
SARS Registration No:	
UIF Number:	
Industry Sector:	
Contact Person:	
Address:	
Town/City	
Postal Code	
Telephone No:	
Fax No:	
E-Mail Address:	
Date of Submission:	

Organ of state:

 Yes No

Are you voluntarily complying with this Act as specified in section 14:

 Yes No

Employment Equity Report

DEPARTMENT OF LABOUR



EEA 2

Employment Equity Report

Page: 6 of 12

Section C: Workforce movement – continued

8. Termination

8.1 Termination: (report the total number of terminations in each occupational level during the twelve months preceding this report)

Occupational Levels	Male				Female				TOTAL
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top management									
Senior management									
Professionally qualified and experienced specialists and mid-management									
Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents									
Semi-skilled and discretionary decision making									
Unskilled and defined decision making									
TOTAL PERMANENT									
People with disabilities									

8.2 Termination categories: (report the total number of terminations in each category during the twelve months preceding this report)

Terminations	Male				Female				TOTAL
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Resignation									
Non-renewal of contract									
Dismissal – Operational requirements (retrenchment)									
Dismissal - misconduct									
Dismissal - incapacity									
Other									
Total									

Section D: Disciplinary Action

9. Disciplinary action: (report the total number of disciplinary actions during the twelve months preceding this report)

Disciplinary Action	Male				Female			
	African	Coloured	Indian	White	African	Coloured	Indian	White

Employment Equity Report

EEA 2

DEPARTMENT OF LABOUR



Section F: Qualitative Assessment

11. Awareness of Employment Equity

11.1 Please indicate which of the following awareness measures were implemented by your organisation:

	Yes	No
Formal written communication		
Policy statement includes reference to employment equity		
Summary of the Act displayed		
Employment Equity training		
Diversity management programmes		
Discrimination awareness programmes		
Other (please specify):		

11.2 Please indicate how many employees received employment equity/non-discrimination training during the past year:

Number of employees trained	
-----------------------------	--

12. Consultation

12.1 Please indicate which stakeholders were involved in the consultation process prior to the development of your employment equity plan:

	Yes	No
Workplace forum		
Consultative body or forum		
Registered trade union (s)		
Employees		
Other (Please specify):		

12.2 What was the level of agreement reached in the formulation of the plan:

Total	Sufficient	Some	None
-------	------------	------	------

12.3 How regularly do you meet with the stakeholders mentioned in 12.1:

Weekly	Monthly	Quarterly	Yearly	Other
--------	---------	-----------	--------	-------

Employment Equity Report

DEPARTMENT OF LABOUR



EEA 2

Employment Equity Report

Page: 11 of 12

Section F: Qualitative Assessment – continued

15. Numerical goals:

15.1 Please use the table below to indicate the numerical goals you have set for your current employment equity plan:

Occupational Categories	Male				Female				TOTAL
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Legislators, senior officials and managers									
Professionals									
Technicians and associate professionals									
Clerks									
Service and sales workers									
Skilled agricultural and fishery workers									
Craft and related trades workers									
Plant and machine operators and assemblers									
Elementary occupations									
TOTAL PERMANENT									
Non – permanent employees									
TOTAL									

15.2 By which year do you plan to achieve the above numerical goals:

16. Resources:

Please indicate what resources have been allocated to the implementation of employment equity during the past year:

Allocation of Resources	Yes	No
Appointed a designated officer to manage the implementation		
Allocated a budget to support the implementation goals of employment equity		
Time off for employment equity consultative committee (or equivalent) to meet on a regular basis		
Other (Please specify)		

17. Monitoring and evaluation of implementation:

How regularly do you monitor progress on the implementation of the employment equity plan:

Weekly	Monthly	Quarterly	Yearly	Other
--------	---------	-----------	--------	-------

Employment Equity Report

DEPARTMENT OF LABOUR



EEA 2

Section G: Progress Report

(Section G to be completed from the second cycle of reporting onwards)

18. Reporting period: From _____ to _____

19. Did you achieve the numerical goals as set out in your employment equity plan for this period:

Yes	No
-----	----

20. Did you achieve the affirmative action objectives as set out in your employment equity plan for this period:

Yes	No
-----	----

20.1 If not, what were the obstacles you experienced:

Obstacles to the employment equity goals and objectives during the past year

20.2 If yes, what factors promoted the accomplishment of your goals and objectives:

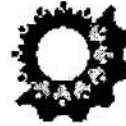
Factors contributing to the accomplishment of the employment equity goals and objectives during the past year

Section H: Signature of Chief Executive Officer

Signed on this _____ day of _____ year _____ at place: _____

Signature _____

Full Name _____

Summary of the Employment Equity Act

EEA 3

DEPARTMENT OF LABOUR**Summary of the Employment Equity Act¹, 55 of 1998, issued in terms of Section 25(1)****1. Chapter I – Definitions, purpose, interpretation and application****1.1 Purpose of the Act: Section 2**

The purpose of the Act is to achieve equity in the workplace, by

- (a) promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination; and
- (b) implementing affirmative action measures to redress the disadvantages in employment experienced by designated groups, to ensure their equitable representation in all occupational categories and levels in the workforce.

1.2 Application of the Act: Section 4

- (a) Chapter II (sections 5 – 11) applies to all employers and employees.
- (b) Chapter III (sections 12 – 27) applies to designated employers.
- (c) A designated employer means an employer who employs 50 or more employees, or has a total annual turnover as reflected in Schedule 4 of the Act, municipalities and organs of state. Employers can also volunteer to become designated employers.
- (d) A designated group means black people, women and people with disabilities.
- (e) The South African National Defence Force, National Intelligence Agency, and South African Secret Services are excluded from this Act.

2. Chapter II - Prohibition of Unfair Discrimination

- 2.1 No person may unfairly discriminate, directly or indirectly, against an employee in any employment policy or practice, on one or more grounds including race, gender, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language, and birth.

¹ Summary of the Act to be published in the other nine official languages in due course.

Summary of the Employment Equity Act

EEA 3

2.2 It is not unfair discrimination to promote affirmative action consistent with the Act or to prefer or exclude any person on the basis of an inherent job requirement.

2.3 Medical Testing: Section 7

- (a) Medical testing of an employee is permissible only when legislation requires testing or when this is justifiable for various reasons.
- (b) HIV testing is prohibited unless such testing is determined to be justifiable by the Labour Court.

2.4 Psychological Testing: Section 8

Psychological testing and similar assessments are prohibited, unless the test is scientifically valid and reliable, can be applied fairly to all employees, and is not biased against any employee or group.

2.5 Disputes concerning this Chapter : Section 10

- (a) An employee, or applicant for employment, may refer a dispute concerning alleged unfair discrimination (or medical or psychological testing) to the CCMA for conciliation. This must be done within six months of the alleged discrimination (or testing).
- (b) If a dispute is not resolved at conciliation, a party may refer it to the Labour Court for adjudication. The parties to a dispute may also agree to refer the dispute to arbitration.
- (c) Unfair dismissal disputes in which unfair discrimination is alleged must be dealt with in terms of the Labour Relations Act. The dismissal must be referred to the CCMA within 30 days.

Summary of the Employment Equity Act

EEA 3

3. Chapter III – Affirmative Action**3.1 Duties of a Designated Employer: Section 13**

- (a) A designated employer must implement affirmative action measures for designated groups to achieve employment equity.
- (b) In order to implement affirmative action measures, a designated employer must:
- consult with employees;
 - conduct an analysis;
 - prepare an employment equity plan; and
 - report to the Director-General on progress made in the implementation of the plan.

3.2 Affirmative Action measures: Section 15

- (a) Affirmative action measures are measures intended to ensure that suitably qualified employees from designated groups have equal employment opportunity and are equitably represented in all occupational categories and levels of the workforce.
- (b) Such measures must include:
- identification and elimination of barriers with an adverse impact on designated groups;
 - measures which promote diversity;
 - making reasonable accommodation for people from designated groups;
 - retention, development and training of designated groups (including skills development); and
 - preferential treatment and numerical goals to ensure equitable representation. This excludes quotas.
- (c) Designated employers are not required to take any decision regarding an employment policy or practice that would establish an absolute barrier to

*Summary of the Employment Equity Act***EEA 3**

prospective or continued employment or advancement of people not from designated groups.

3.3 Consultation: Sections 16 and 17

A designated employer must take reasonable steps to consult with representatives of employees representing the diverse interests of the workforce on the conducting of an analysis, preparation and implementation of a plan, and on reporting to the Director-General.

3.4 Disclosure of Information: Section 18

To ensure meaningful consultation, the employer must disclose relevant information to the consulting parties, subject to section 16 of the Labour Relations Act 66 of 1995.

3.5 Analysis: Section 19

A designated employer must conduct an analysis of employment policies, practices, procedures, and working environment so as to identify employment barriers that adversely affect members of designated groups. The analysis must also include the development of a workforce profile to determine to what extent designated groups are under-represented in the workplace.

3.6 Employment Equity Plan: Section 20

(a) A designated employer must prepare and implement a plan to achieve employment equity, which must:

- have objectives for each year of the plan;
- include affirmative action measures;
- have numerical goals for achieving equitable representation;
- have a timetable for each year;
- have internal monitoring and evaluation procedures, including internal dispute resolution mechanisms; and
- identify persons, including senior managers, to monitor and implement the plan.

3.7 Report : Section 21

- (a) An employer who employs fewer than 150 employees must submit its first report to the Director-General within 12 months after the commencement of the Act, and thereafter every two years on the first working day of October.
- (b) An employer who employs 150 or more employees, must submit its first report 6 months after the commencement of the Act, and thereafter every year on the first working day of October.

3.8 Designated employer must assign a manager: Section 24

A designated employer must assign one or more senior managers to ensure implementation and monitoring of the employment equity plan and must make available necessary resources for this purpose.

3.9 Income Differentials : Section 27

A statement of remuneration and benefits received in each occupational category and level of the workforce must be submitted by a designated employer to the Employment Conditions Commission (ECC).

Where there are disproportionate income differentials, a designated employer must take measures to reduce it progressively. Such measures may include collective bargaining, compliance with sectoral determinations (section 51 of the Basic Conditions of Employment Act, 1997); the application of norms and benchmarks recommended by the ECC, relevant measures contained in skills development legislation, and any other appropriate steps.

4. Chapter V – Monitoring, Enforcement and Legal Proceedings**4.1 Monitoring: Section 34**

Employee or trade union representatives can monitor contraventions of the Act and report to relevant bodies.

4.2 Powers of the Labour Inspector: Section 35

Labour Inspectors are authorised to conduct an inspection as provided for in sections 65 and 66 of the Basic Conditions of Employment Act, 1997.

4.3 Undertaking to Comply: Section 36

If the inspector has reasonable grounds to believe that a designated employer has failed to comply with its obligations in terms of the Act, the inspector will obtain a written undertaking to comply within a specified period.

4.4 Compliance Order: Section 37

If the designated employer refuses to comply with the written undertaking, the inspector will issue an order to comply.

4.5 Review by Director-General: Section 43

The Director-General may conduct a review to determine whether an employer is complying with the Act. On completion of the review, the Director-General may make recommendations for compliance within certain time frames.

4.6 Powers of the Labour Court: Section 50

The Labour Court has the powers to make any appropriate orders, award compensation, or impose fines.

4.7 Protection of Employee Rights: Section 51

The Act protects employees who exercise their rights and obligations under the Act against victimisation, obstruction and undue influence.

5. Chapter VI – General Provisions**5.1 State contracts: Section 53**

Designated employers and employers who voluntarily comply with Chapter III, who seek to do business with any organ of state, will have to apply for a certificate from the Minister confirming their compliance with Chapters II and III of the Act. Non-designated employers' compliance certificates will pertain to Chapter II.

5.2 Liability of Employers: Section 60

Should employees contravene any provision of this Act, while performing their duties, the employer will be liable unless the employer can prove that it did everything in its power to prevent the undesired act.

Nkomiso wa Nawu wa Ndzingano

EEA 3A

NDZAWULO YA VATIRHI

**Nkomiso wa Nawu wa Ndzingano wa Vuthori, 55 wa 1998, wu humesiwa hi ku landzelela
Xiyenge xa 25(1)**

1. Kavanyisa ka 1 - Tinhlamuselo, Xikongomelo, Nhlamuselo na Maendlelo/Matirhiselo

1.1 Xikongomelo xa Nawu: Xiyenge xa 2

Xikongomelo xa Nawu i ku fikelela ndzingano entirhweni, hi ku;

- (a) tlakusa xiyimo xo ringanana na makhomele lamanene eka vuthori/ntirho hi tlhelo ro herisa xihlawu-hlawu lexi nga ri ki kahle; na
- (b) ku tirhisa endlele ro lulamisa leswi khale a swi hambolokile ("affirmative action") hi thlelo ro endlela ku lulamisa leswi a swi nga ri kahle eka matholele tani hi laha swi veke xiswona xikarhi ka mintlawe leyi a yi hlawuleriwela etlhelo, leswaku sweswi ku ta vonisisiwa leswaku ku va na ndzingano wa vuyimeri eka mikhetekanyo ya mintirho na swiyimo eka ntlawa wa vatirhi.

1.2 Matirhisele ya Nawu: Xiyenge xa 4

- (a) Kavanyisa ka II (swiyenge 5 – 11) ku khumba vathori na vatirhi hinkwavo.
- (b) Kavanyisa ka III (swiyenge 12 – 27) ku khumba vathori lava hlawuriweke.
- (c) Muthori loyi a hlawuriweke swi vula muthori loyi a tholaka 50 wa vatirhi kumbe ku tlula kwalaho, kumbe loyi hi lembe a nga endlaka ntsengo wa vuyelo lowu kombetiweke eka Xitandzhaku xa 4 xa Nawu, vamasipala na swirho/marhavi ya mfumo. Vathori va nga tlhela va tihlawulela ku va vathori lava hlawuriweke.
- (d) Ntlawa wa vahlawuriwa wu vula vanhu va vantima, vavasati kumbe vanhu lava va tsoniweke.

Nkomiso wa Nawu wa Ndzingano

EEA 3A

- (e) Nawu lowu a wu khumbi lava va nga swirho swa Vuthu ra Vusirhelelo bya Rixaka, Nhlango wa Vuhlori bya Rixaka, kumbe Ntirho wa Swihundla eAfrika Dzonga.

2. Kavanyisa ka 2 – Ku sivela xihlawu-hlawu lexi nga ri ki kahle

2.1 Ku hava munhu loyi a nga endlaku xihlawu-hlawu, hi ndlela leyi kongomeke kumbe hi ndlela yin'wana eka muthoriwa, eka endlele rihi na rihi ra vuthori kumbe ntirho, hikwalaho ka xikongomelo xin'we kumbe swo tala, ku katsa mhaka ya rixaka, rimbewu, ku biha emirini, vukati, vutihlamuleri bya ndyangu, ntlawa wa rixaka kumbe ku tumbuluka eka vanhu va mahanyele yo karhi, muhlovo wa nhlonge, ku voyamela eka tlhelo rin'we ra rimbewu, vukhale/malembe, vutsoniwa, vukhongeri, xiyimo xa vuvabyi bya HIV, ripfalo/vutitwi, vutshembheri eka swa khale, maehleketelele/mianakanyo eka swa tipolotiki, ndzhaka, ririmi na ku velekiwa.

2.2 A hi mhaka ya xihlawu-hlawu xo biha eka ku teka magoza yo lulamisa leswi khale a swi hambolokile leswi yelanaka na xikongomelo xa Nawu, kumbe ku hlawula, ku khira kumbe ku tsakela munhu wihi na wihi hikwalaho ka leswi swi nga swilaveko leswi ti simekeke tani hi swilaveko swa ntirho.

2.3 Swikambelo swa Vutshunguri: Xiyenge xa 7

(a) Ku kamberiwa hi ndlela ya vutshunguri eka muthoriwa swi pfumeleriwa ntsena loko nawu wa mfumo wu koxa leswaku ku va na vukamberi kumbe loko swi ri leswi nyikiweke mfanelo yo endla tano hi xikongomelo xa ntiyiso lowu lavekaka.

(b) Ku kamberiwa ku endlela ku tiva xiyimo xa HIV a ku pfumeleriwi handle ka loko ku kambela koloko ku voniwa ku fanerile hi Khoto ya ta Vতিরহি.

2.4 Vukamberi bya ntivo-miehleketo/rimoya: Xiyenge xa 8

Vukamberi bya ntivo-miehleketo na mimpimanyiso yo fana a byi pfumeleriwi, handle ka loko byi ri lebyi kombisiweke hi ndlela ya xisayinsi ku va byi ri lebyi tirhisekaka no tshembeka, ku nga endliwaka hi ndlela leyinene eka vতিরহি hinkwavo, na ku a byi voyameli eka mutirhi kumbe ntlawa wihi na wihi wo karhi.

Nkomiso wa Nawu wa Ndzingano

EEA 3A

2.5 Minkanetano/Madzolonga/Swivilelo mayelana na Kavanyisa loku : Xiyenge xa 10

- (a) Muthoriwa, kumbe mukumberi wa ntirho eka vuthori/entirhweni, a nga hundzisela swivilelo leswi khumbaka swihello swa ku avanyisa loku nga amukelekiki (kumbe ku kambela vutshuguri kumbe ntivo-miehleketo/rimoya) eka Khomixini yo Lulama, ku Hlanganisa no Ahlula (CCMA/KLHA) leswaku yi nghenelela. Leswi swi fanele ku endliwa enkarhini wa ntsevu wa tin'hweti endzhaku ka swihello swa ku avanyisa (kumbe vukamberi).
- (b) Loko xivilelo xi nga herisiwanga eka vangheneleri, wun' wana a nga xi yisa eka Khoto ya Vtirhi leswaku yi ya teka xiboho. Lava khumbekaka eka xivilelo va nga tlhela va pfumelelana leswaku va hundzisela xivilelo eka valamuri.
- (c) Swivilelo swa ku hlongoriwa hi ndlela leyi nga amukelekiki laha ku nga na swihello swa ku avanyisa lo ku nga amukelekiki, swi fanele ku langutisisiwa hi ku landza nawu wa Vuxaka bya le Mintirhweni. Xivilelo xo hlongoriwa xi fanele ku hundziseriwa eka Khomixini yo Lulama, ku Hlanganisa no Ahlula (CCMA/KLHA) enkarhini wa 30 wa masiku.

3. Kavanyisa ka 3 – Ku lulamisa leswi khale a swi hambolokile

3.1 Mintirho ya muthori loyi a hlawuriweke: Xiyenge xa 13

- (a) Muthori loyi a hlawuriweke, u fanele ku va loko a lava ku fikelela eka ndzingano wa vuthori, a tirhisa endlele leri ro lulamisa leswi khale a swi hambolokile eka vanhu lava humaka eka mintlawa leyi hlawuriweke.
- (b) Ku simeka matirhelo yo lulamisa leswi khale a swi hambolokile, muthori loyi a hlawuriweke u fanele a:
 - tsundzuxana/ku tihlanganisa na vতিরহি;
 - endla ntlhantlho wa vuxopaxopi/vulavisisi;
 - lulamisa kungu ra ndzingano wa vuthori; na ku
 - vika eka Mulawuri-Nkulu hi mayelana na nhluvuku lowu endliweke eka matirhisele ya pulani ya ndzingano wa vuthori.

3.2 Magoza yo lulamisa leswi khale a swi hambolokile: Xiyenge xa 15

- (a) Magoza yo lulamisa leswi khale a swi hambolokile i magoza la mo endlela ku vonisisa leswaku vanhu lava va nga fanela kahle eka swilaveko swa vona lava humaka hi le ka mintlawwa leyi hlawuriweke na vona va va na nkarhi na timfanelo to ringana eka vathori ni leswaku na vona va vekiwa eka xiyimo xo ringanana eka mikhetekanyo hinkwayo ya mintirho na swiyimo hinkwaswo swa vuthu ra vathiri.
- (b) Magoza ya lawo ma fanele ku katsa:
- ku kombisa na ku herisa mindzilikana leyi khumbaka vanhu vo huma hi le ka mintlawwa leyi nga hlawuriwa hi ndlela leyi nga amukelekiki;
 - magoza lama nga endliwa hi tlhelo ro vonisisa leswaku ku yiwa emahlweni ni ku va na ku hambana-hambana;
 - ku endla vurhurhelo lebyi amukelekaka bya vanhu lava humaka eka mintlawwa leyi nga hlawuriwa;
 - ku hlayisa, ku hlulukisa na ku letela eka vanhu la va humaka eka mintlawwa leyi nga hlawuriwa (ku katsa na nhlulukiso wa vutshila); na
 - ku pfuneta hi tlhelo ra vutihlawuleri ni swikongomelo swa nyumeresi leswaku ku va na xiyimo xo ringanana. Leswi a swi katsi mhaka ya swa mimpimo (quotas).
- (c) Muthori loyi a nga hlawuriwa a nga pfumeleriwi ku teka xiboho xihhi na xihhi mayelana na nawu wa mafambisele ya swa vuthori kumbe endlele ra ntirho leri nga ta vanga ku tumbuluxiwa ka ndzilikana wa xiviri eka vuthori lebyi fanelaka ku va kona kumbe ku ya emahlweni ka vanhu lava nga humiki hi le ka mintlawwa leyi nga hlawuriwa.

3.3 Ku ti hlanganisa no tsundzuxana: Swiyenge Swa 16 na 17

Muthori loyi a hlawuriweke u fanele ku teka magoza lama faneleke yo tihlanganisa na vayimeri va vathiri lava yimelaka ku navela loku anameke ka vuthu ra vathiri eka mafambiselo ya vulavisisi, ku lulamisa no simeka kungu, no yika eka Mulawuri-Nkulu.

Nkomiso wa Nawu wa Ndingano

EEA 3A

3.4 Ku paluxa/humesa marungula: Xiyenge xa 18

Ku tiyisisa ku ti hlanganisa loku nga na koka, muthori u fanele ku humesa marugula lama faneleke eka mintlawwa ya vuhlanganisi, ku ya hi xiyenge xa 16 xa Nawu wa Vuxaka bya le Mintirhweni, Nawu 66 wa 1995.

3.5 Ntlhantlho/Ku lavisisa: Xiyenge xa 19

Muthori loyi a nga hlawuriwa u fanele a endla ntlhantlho/vulavisisi bya nawu wa mafambisele eka swa vuthori, matirhele, tindlela leti landzeleriwa, na xiyimo xa ndhawu yo tirhela eka yona, eka ku endlela ku kombisa mindzilikana ya vuthori leyi khumbaka vanhu lava humaka eka mintlawwa leyi nga hlawuriwa hi ndlela leyi nga amukelekiki. Vulavisisi byi fanele ku tlhela byi katsa nhluvukiso wa xivumbeko xa vuthu ra vatrhi, ku vona hi laha mintlawwa leyi hlawuriweke yi kayivelaka vuyimeri entirhweni.

3.6 Pulani kumbe kungu ya vuthori bya ndzingano: Xiyenge xa 20

(a) Muthori loyi a hlawuriweke u fanele ku lulamisa no simeka kungu leswaku a ta fikelela ku ringana eka matholele, naswona ri fanele:

- ku va na swikongomelo swa lembe rin'wana na rin'wana ra kungu;
- ku katsa magoza yo lulamisa leswi a swi hambolokile khale;
- ku va na swikongomelo swa nyumeresi leswi faneleke ku fikelela vuyimeri bya ndzingano bya vanhu;
- ku va na nongonoko wa lembe na lembe;
- ku va na matirhelo ya le ndzeni yo xiyisisa no pima, ku katsa na makungu ya le ndzeni yo kuma tinhlamulo ta swivilelo leswi nga va ka kona ; na
- ku kuma vanhu, ku katsa na vafambisi va xiyimo xa le henhla, lava nga ta xiyisisa no simeka kungu.

3.7 Xiviko : Xiyenge xa 21

(a) Muthori loyi a tholaka vatrhi lava va nga hansi ka 150, u fanele ku rhumela xiviko xa yena xo sungula eka Mulawuri-Nkulu ku nga si hela 12 wa tin'hweti endzhaku ka ku sungula ku tirha ka Nawu, kutani endzhaku ka swona xi fanele ku rhumeriwa endzhaku ka malembe yan'wana na yan'wana mambirhi, hi siku ro sungula ra Nhlangua.

Nkomiso wa Nawu wa Ndingano

EEA 3A

(b) Muthori loyi a tholaka 150 wa vatirhi kumbe ku tlula, u fanele ku rhumela xiviko xo sungula eka Mulawuri-Nkulu ku nga si hela ntsevu wa tin'hweti endzhaku ka ku sungula ku tirha ka Nawu lowu, kutani endzhaku ka swona xi fanele ku rhumeriwa endzhaku ka lembe rin'wana na rin'wana, hi siku ro sungula ra Nhlangua.

3.8 Muthori loyi a hlawuriweke u fanele ku hlawula mufambisi: Xiyenge xa 24

Muthori loyi a hlawuriweke u fanele ku hlawula mufambisi-nkulu wun'we kumbe vo hlaya leswaku va tiyisisa ku simekiwa na ku xiyaxiya kungu ra ku ringana eka matholele naswona u fanele ku vona leswaku ku na swihlovo leswi lavekaka swa ntirho.

3.9 Ku hambana ka miholo: Xiyenge xa 27

Xiviko xa miholo na mimbuyelo leyi yi nga amukeriwa eka xiyenge na xiyimo xin'wana xa ntirho xa vuthu ra vatirhi, xi fanele ku rhumeriwa hi muthori loyi a hlawuriweke eka Khomixini ya ta Matshamelo ya le Mintirhweni (KMM).

Laha ku nga hava ku yelana eka ku hambana ka miholo, muthori loyi a hlawuriweke u fanele ku teka magoza ya ku hunguta hi ku famba ka nkarhi. Magoza yo tani ya nga katsa ku ti vumba nyandza yin'we eka ku kanerisana, ku fambelana na ku tiyimisela ku ya hi swiyenge (xiyenge xa 51 xa Nawu wa Swiboho swa Masungulo ya Ntirho); ku tirhisa mintolovelo na masungulo lama bumabumeriwaka hi Khomixini ya ta Matshamelo ya le Mintirhweni (KMM), tindlela leti faneleke leti nga le ka nawu wa nhluvukiso wa vutshila, na magoza yan'wana lama faneleke.

4. Kavanyisa ka V - Ku Xiyisisa, ku Sindzisa na Matirhelo ya Nawu

4.1 Ku Xiyisisa: Xiyenge xa 34

Mutirhi kumbe vayimeri va vatirhi va nga xiyisisa ku tluriwa ka Nawu kutani va vika eka minhlangano leyi faneleke.

Nkomiso wa Nawu wa Ndingano

EEA 3A

4.2 Matimba ya Mukamberi wa Vatirhi: Xiyenge xa 35

Vakamberi va vatirhi va pfumeleriwa ku endla vukamberi ku ya hi laha swi pfumeleriwaka hi swiyenge swa 65 na 66 swa Nawu wa Swiboho swa Masungulo ya Ntirho.

4.3 Ku tiyimisela ku landzelela swipimelo: Xiyenge xa 36

Loko mukamberi a ri na swivangelo leswi amukelakaka swo kholwa leswaku muthori loyi a hlawuriweke u tsandzeke ku landzelela swipimelo hi ku landza Nawu, mukamberi u ta kuma xikogomelo lexi tsariweke xo landzelela swipimelo leswi faneleke ku hetisisiwa enkarhini wo karhi lowu pimiweke.

4.4 Xileriso xo Landzelela Swipimelo: Xiyenge xa 37

Loko muthori loyi a hlawuriweke a ala ku landzelela swipimelo swa xikongomelo lexi tsariweke, mukamberi u ta humesa xileriso xo landzelela swipimelo.

4.5 Nkambisiso hi Mulawuri-Nkulu: Xiyenge xa 43

Mulawuri-Nkulu a nga endla nkambisiso ku vona leswaku swipimelo swa landzeleriwa. Loko ku hela nkambisiso, Mulawuri-Nkulu a nga endla swibumabumelo swo landzelela swipimelo leswi faneleke ku hetisisiwa eminkarhini yo karhi leyi pimiweke.

4.6 Matimba ya Khoto ya Vatirhi: Xiyenge xa 50

Khoto ya Vatirhi yi na matimba yo endla swileriso leswi faneleke, yo nyika ndziriso, kumbe ku nyika fayini.

4.7 Nsirhelelo wa Timfanelo ta Mutirhi: Xiyenge xa 51

Nawu wu sirhelela vatirhi lava tirhisaka timfanelo na ku tiyisela ka vona hi ku landza Nawu, eka ku chavisiwa, ku siveriwa na nkucetelo lowu tshikelelaka.

Nkomiso wa Nawu wa Ndzingano

EEA 3A

5. Kavanyisa ka VI – Swipimelo swo Angarhela**5.1 Tikontraka ta Mfumo: Xiyenge xa 53**

Vathori lava va hlawuriweke na vathori lava va tihlawulelaka ku landzelela swipimelo swa Kavanyisa ka III, lava tsakelaka ku endla bindzu na xiyenge xin'wana na xin'wana xa mfumo, va fanele ku endla xikombelo xa setifikheti xo huma eka Holobye, lexi tiyisisaka leswaku va landzelela swipimelo swa Kavanyisa ka II na III swa Nawu. Tisetifikheti ta vathori lava va nga hlawuriwangiki ti ta khumba ntsena Kavanyisa ka II.

5.2 Vutihlamuleri bya Vathori: Xiyenge xa 60

Loko vatirhi va tlula swipimelo swa Nawu lowu, loko va ri karhi va endla mintirho ya vona, vutihlamuleri byi ta va emakatleni ya muthori, handle ka loko muthori a swi veka erivaleni leswaku u endlile hi laha a nga swi kota ha kona ku sivele migingiriko leyi nga amukelekiki.

Statement of Income Differentials to the Employment Conditions Commission

EEA 4

DEPARTMENT OF LABOUR



Income Differential Statement

Page: 1 of 2

Employment Equity Act
55 of 1998, Section 27

PLEASE READ THIS FIRST

WHAT IS THE PURPOSE
OF THIS FORM?

This form contains the format for reporting income differentials to the Employment Conditions Commission.

WHO FILLS IN THIS FORM?

All designated employers, that have to submit a report in terms of the Employment Equity Act, 55 of 1998.

Smaller employers (less than 150 employees) only have to complete Sections A and D of this statement. All other designated employers complete every section of this statement.

INSTRUCTIONS

Income levels per occupational group must be reported in two wage categories. In completing the Income Levels, the first income level (1) represents the average equivalent yearly remuneration and benefits of the five highest paid employees in that occupational category.

The second income level (2) represents the average equivalent yearly remuneration and benefits of the five lowest paid employees in that occupational category. For reporting purposes, calculate what the equivalent yearly remuneration and benefits would be of workers who are not employed full-time.

Per occupational group:

The first income level (1) = sum of the 5 highest salaries in that occupational group divided by 5.

The second income level (2) = sum of the 5 lowest salaries in that occupational group divided by 5.

Section A: Employer details

Employer:	
Registration No:	
SARS Registration No:	
UIF Number:	
Industry Sector:	
Contact Person:	
Address:	
Town/City:	
Postal Code:	
Telephone No:	
Fax No:	
E-Mail Address:	
Date of submission:	

Section B: Income differentials per occupational category

Occupational Categories	Income Levels	
	1.	R
Legislators, senior officials and managers	1.	R
	2.	R
Professionals	1.	R
	2.	R
Technicians and associate professionals	1.	R
	2.	R
Clerks	1.	R
	2.	R
Service and sales workers	1.	R
	2.	R
Skilled agricultural and fishery workers	1.	R
	2.	R
Craft and related trades workers	1.	R
	2.	R
Plant and machine operators and assemblers	1.	R
	2.	R
Elementary occupations	1.	R
	2.	R

Statement of Income Differentials to the Employment Conditions Commission

EEA 4

DEPARTMENT OF LABOUR



Income Differential Statement

Page: 2 of 2

Per occupational level:

The first income level (1) = sum of the 5 highest salaries in that occupational level divided by 5.

The second income level (2) = sum of the 5 lowest salaries in that occupational level divided by 5.

Income and Occupational Groups are defined in Regulation 6.

SEND TO?

Employment Conditions Commission
c/o Employment Equity Registry
(Income Differentials)
The Department of Labour
Private Bag X117
Pretoria
0001
e-mail: ee@labour.gov.za

Section C: Income differentials by occupational level

Occupational level	Income levels	
	1.	R
Top management	1.	R
	2.	R
Senior management	1.	R
	2.	R
Professionally qualified and experienced specialists and mid-management	1.	R
	2.	R
Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents	1.	R
	2.	R
Semi-skilled and discretionary decision making	1.	R
	2.	R
Unskilled and defined decision making	1.	R
	2.	R

Section D: Total income differentials

	Income levels	
	1.	R
All occupations and levels	1.	R
	2.	R

Employment Equity Undertaking

EEA 5

Employment Equity Act, 55 of 1998,
Section 36

PLEASE READ THIS FIRST



WHAT IS THE PURPOSE OF THIS FORM?

To record an Undertaking by the employer to comply with paragraphs (a) to (j) of Section 36 of the Act.

WHO FILLS IN THIS FORM?

The employer, assisted by the inspector.

WHERE DOES THIS FORM GO?

The inspector.

INSTRUCTIONS

May be issued when an inspector has reasonable grounds to believe that a designated employer has failed to comply with paragraphs (a) to (j) of Section 36 of the Act.

Failure to comply with this Undertaking will result in a Compliance Order (EEA 6) being issued.

DEPARTMENT OF LABOUR



UNDERTAKING

Ref/Case No:.....

Enquiries:

(Delete that which is not applicable)

1. I / We (Employer)

..... (Registration No)

undertake to comply with the following paragraphs of section 36 of the Act:

.....
.....

DATED THIS DAY OF YEAR

AT (PLACE)

.....
SIGNED: EMPLOYER

.....
SIGNED: LABOUR INSPECTOR

WITNESSES 1.

2.

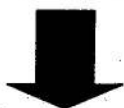


DEPARTMENT OF LABOUR

COMPLIANCE ORDER

Employment Equity Act, 55 of 1998, Section 37

PLEASE READ THIS FIRST



WHAT IS THE PURPOSE OF THIS FORM?

To enforce compliance relating to paragraphs (a) to (j) of Section 36 of the Act.

WHO FILLS IN THIS FORM?

The Inspector.

WHERE DOES THIS FORM GO?

The employer.

INSTRUCTIONS

- The inspector may issue a **Compliance Order** to a designated employer if that employer has refused to give a written **Undertaking** (EEA 5) in terms of Section 36, when requested to do so; or failed to comply with a written **Undertaking** (EEA 5) given in terms of Section 36.
- The employer must display a copy of this order prominently at a place accessible to the affected employees at each workplace named in it.
- An employer must comply within the time period stated unless the employer objects in terms of Section 39.
- Failure to comply could result in a referral to the Labour Court.

Ref/Case No:.....

Enquiries:

Date of issue:

Provincial Office/Labour Centre:
(Delete that which is not applicable)

1. Employer:

2. Registration No.

3. Workplace(s):

4. You have not complied with the following provisions of the Act as specified in paragraphs (a) to (j) of Section 36.

Paragraph(s):

5. Details:

AND / OR

6. You have not complied with a written undertaking to the following extent:

AND / OR

7. You are required to implement the following within ___ days of receipt hereof:

7.1

7.2

AND / OR

8. Fines

8.1 The Director-General may recommend to the Labour Court to impose a fine in accordance with Schedule 1 of the Act, which Schedule contains the following:

Employment Equity Undertaking

EEA 6

SCHEDULE 1

Maximum fine that may be imposed in terms of the Act for contravention of certain provisions of the Act.

PREVIOUS CONTRAVENTION	CONTRAVENTION OF ANY PROVISION OF SECTIONS 16, 19, 20, 21, 22 AND 23
No previous contravention	R500 000
A previous contravention in respect of the same provision	R600 000
A previous contravention within the previous twelve months or two previous contraventions in respect of the same provision within three years	R700 000
Three previous contraventions in respect of the same provision within three years	R800 000
Four previous contraventions in respect of the same provision within three years	R900 000

9. Objections

You may object to this compliance order by making representations to the Director-General within 21 days of receipt of this order.

GIVEN UNDER MY HAND ON THIS DAY OF

YEAR AT (PLACE)

.....
LABOUR INSPECTOR

Employment Equity Act, 55 of 1998,
Section 39



DEPARTMENT OF LABOUR

OBJECTION AGAINST A COMPLIANCE ORDER
IN TERMS OF SECTION 39 OF THE ACT

NOTICE OF OBJECTION

PLEASE READ THIS FIRST



WHAT IS THE PURPOSE OF THIS FORM?

For a designated employer to object against a compliance order.

WHO FILLS IN THIS FORM?

The employer.

WHERE DOES THIS FORM GO?

To the Provincial Office of the Department from which the compliance order was issued.

INSTRUCTIONS

- This objection must be lodged to the office of the Provincial Director that issued the compliance order within 21 days of the date of receipt of the compliance order.
- Must include all relevant information submitted to the Department of Labour.
- A copy must be delivered to the employee(s) affected by it or, if this is impractical to a representative of the employee(s), including a registered trade union.

1. Employer:

Registration No:

Telephone No:

Fax No:

Address:

.....

..... Postal Code

2. Quote the reference number and date of the compliance order against which the objection is lodged.

Reference/Case No. Date

3. To which portion of the compliance order do you object?

.....
.....
.....
.....
.....
.....

4. State your full reasons for lodging the objection:

.....
.....
.....
.....
.....
.....
.....
.....

Employment Equity Objection to Compliance Order

EEA 7

Any documentary evidence (or copies thereof) that you wish to submit in support of your contention(s) as stated in paragraph 4 should be attached and listed below:

Number	Title or description of document
.....
.....
.....
.....
.....

5. Appeal

You may appeal to the Labour Court against any order made by the Director-General within 21 days of receipt of the order.

Place:

Date:

.....
Signature of objector / employer

.....
Full Name of objector / employer

.....
Designation

ANNEXURE 1: Demographic Data

Employment Equity Act,
55 of 1998

PLEASE READ THIS FIRST



**WHAT IS THE PURPOSE
OF THIS ANNEXURE?**

The data contained in this annexure were taken from the Census 96, published in 1998 by Statistics South Africa.

INSTRUCTIONS

Employers may use this data, when conducting an analysis of the workforce profile, to make a comparison with the relevant national and provincial demographics. Please note that the columns and rows do not always total exactly. This is because Statistics SA rounds off the numbers in their publications.

Should more demographic information be required, these may be obtained from Statistics SA.

1. ECONOMICALLY ACTIVE POPULATION BY PROVINCE

	Eastern Cape	Free State	Gauteng	Kwazulu Natal	Mpumalanga	Northern Cape	Northern Province	North West	Western Cape	Total
Employed	786818	701175	2564243	1570573	605925	215523	570129	725287	1374174	9113847
Unemployed	742427	299948	1007766	1008944	297290	86060	486554	443546	299114	4671647
Total	1529245	1001123	3572009	2579517	903215	301583	1056683	1168833	1673288	13785493

Employed (%)	8.63%	7.69%	28.14%	17.23%	6.65%	2.36%	6.26%	7.96%	15.08%
Unemployed (%)	15.89%	6.42%	21.57%	21.60%	6.36%	1.84%	10.42%	9.49%	6.40%
Total (%)	11.09%	7.26%	25.91%	18.71%	6.55%	2.19%	7.67%	8.48%	12.14%

2. ECONOMICALLY ACTIVE POPULATION BY RACE AND GENDER

	African	Coloured	Asian	White	Other	Male	Female
Employed	5682476	1129515	363486	1856452	81917	5481903	3631944
Unemployed	4205992	299231	50379	89066	26980	2039917	2631730
Total	9888468	1428746	413865	1945518	108897	7521820	6263673

Employed (%)	62.35%	12.39%	3.99%	20.37%	0.90%	60.15%	39.85%
Unemployed (%)	90.03%	6.41%	1.08%	1.91%	0.58%	43.67%	56.33%
Total (%)	71.73%	10.36%	3.00%	14.11%	0.79%	54.56%	45.44%

Annexure 1 of the Regulations to the Employment Equity Act

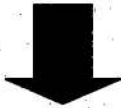
3. OCCUPATION BY PROVINCE										
	Eastern Cape	Free State	Gauteng	Kwazulu- Natal	Mpumalanga	Northern Cape	Northern Province	North West	Western Cape	Total
Legislators, senior officials and managers	29805	18068	128722	49079	22133	5551	12647	21720	75302	363028
Professionals	96195	49539	250676	144273	42114	14382	73320	57539	124540	852578
Technicians and associate professionals	47329	26188	192410	89794	22108	9152	20135	29277	97776	534169
Clerks	52655	40005	256633	109067	33235	13974	25260	42478	133725	707032
Service workers, shop and market sales workers	66686	54491	258104	126425	52669	16844	50008	64105	121471	810804
Skilled agricultural and fishery workers	34422	39906	52972	51696	40916	17365	45455	33428	39466	355626
Craft and related trades workers	88833	92949	410630	186319	96941	23136	79517	143011	156551	1277888
Plant and machine operators and assemblers	42547	65161	175937	118776	56150	8946	26835	57015	88668	640033
Elementary occupations	217469	251245	498279	377072	179233	82686	164692	200910	403862	2375449
Unspecified/Other	110876	63622	339879	318073	60426	23488	72259	75805	132812	1197239
Total	786818	701175	2564243	1570573	605925	215523	570129	725287	1374174	9113847

Annexure 1 of the Regulations to the Employment Equity Act

4. OCCUPATION BY RACE AND GENDER									
	African	Coloured	Asian	White	Other	Total	Male	Female	Total
Legislators, senior officials and managers	26.66%	8.32%	7.50%	56.37%	1.15%	363028	72.55%	27.45%	363028
Professionals	48.98%	8.62%	4.83%	36.40%	1.17%	852578	44.69%	55.31%	852578
Technicians and associate professionals	32.60%	10.26%	6.71%	49.32%	1.12%	534169	52.06%	47.94%	534169
Clerks	34.91%	14.81%	7.58%	41.49%	1.21%	707032	31.20%	68.80%	707032
Service workers, shop and market sales workers	62.47%	11.39%	4.34%	20.92%	0.88%	810803	65.35%	34.65%	810803
Skilled agricultural and fishery workers	75.15%	9.98%	0.05%	14.24%	0.57%	355626	80.11%	20.34%	355626
Craft and related trades workers	68.83%	11.97%	3.29%	15.10%	0.81%	1277888	87.14%	12.86%	1277888
Plant and machine operators and assemblers	73.25%	13.99%	4.97%	6.98%	0.81%	640033	84.50%	15.50%	640033
Elementary occupations	80.61%	15.65%	0.79%	2.26%	0.68%	2375449	43.02%	56.98%	2375449
Unspecified/Other	59.41%	10.37%	6.35%	22.83%	1.04%	1197239	70.93%	29.07%	1197239
Total	62.36%	12.40%	3.97%	20.37%	0.90%	9113847	60.16%	39.86%	9113847

Annexure 2 of the Regulations to the Employment Equity Act

EEA 9

ANNEXURE 2: Occupational LevelsEmployment Equity Act 55,
1998**PLEASE READ THIS FIRST****WHAT IS THE PURPOSE
OF THIS ANNEXURE?**

Job evaluation or grading systems are used by many organisations to measure jobs according to their content and establish comparative worth between jobs.

This annexure provides a table of equivalent occupational levels which may be used by employers when completing forms EEA 2 and EEA 4.

INSTRUCTIONS

The table indicates the occupational levels within organisations as determined through the use of different job evaluation or grading systems. The table provides equivalent levels from each of these job evaluation systems.

Organisations that make use of neither one of the job evaluation systems in this table, nor a customised system linked to one of these, should use the Semantic Scale for guidance in determining occupational levels within that organisation.

Equivalent occupational levels

Semantic Scale	Paterson	Peromnes	Hay	Castellion
Top management	F	F	1++	14
			1+	
Senior management	E	E UPPER	1	1
		E LOWER	2	2
Professionally qualified, experienced specialists and mid-management	D	D UPPER	3	3
		D LOWER	4	4
Skilled technical and academically qualified workers, junior management, supervisors, foremen, superintendents	C	C UPPER	5	5
			6	6
		C LOWER	7	6A
			8	7
Semi-skilled and discretionary decision making	B	B UPPER	8	8
			9	9
		B LOWER	10	10
			11	11
Unskilled and defined decision making	A	A	12	12
			13	13
			14	14

ANNEXURE 3: Occupational Categories

Employment Equity Act 55,
1998

PLEASE READ THIS FIRST



**WHAT IS THE PURPOSE
OF THIS ANNEXURE?**

This annexure provides a summary of definitions for occupational categories which may be used by employers when completing forms EEA 2 and EEA 4.

INSTRUCTIONS

Each occupational category contains a description and illustrative list of occupations that may be included in that category. The complete guideline to occupational categories may be obtained from Statistics SA.

1. Legislators, Senior Officials and Managers

This group includes occupations whose main tasks consist of determining and formulating policy and strategic planning, or planning, directing and co-ordinating the policies and activities of the organisation in the private and public sectors, determining and formulating laws and for directing and controlling the functions of the organisation. Includes: chief executive officer; president; vice-president; chief operating officers; general managers and divisional heads; managers who provide the direction of a critical technical function; postmaster; superintendent; dean and school principal etc.

2. Professionals

This group includes occupations whose main tasks require a high level of professional knowledge and experience in the fields of physical and life sciences, or social sciences and humanities. The main tasks consist of increasing the existing stock of knowledge, applying scientific and artistic concepts and theories to the solution of problems, and teaching about the foregoing in a systematic manner. Includes: engineers (civil, mechanical, chemical, electrical, petroleum, nuclear, aerospace, etc.); architects; lawyers; biologists; geologists; psychologists; accountants; physicists, system analysts; assayers; valuers; town and traffic planners etc.

3. Technicians and Associate Professionals

This group includes occupations whose main tasks require technical knowledge and experience in one or more fields of the physical and life sciences, or the social sciences and humanities. The main tasks consist of carrying out technical work connected with the application of concepts and operational methods in the above-mentioned fields and in teaching at certain educational levels. Includes: computer programmers; nurses; physio-and-occupational therapists; draftsmen/women; musicians; actors; photographers; illustrating artists; product designers; radio and television announcers; translators and interpreters; writers and editors; specialised inspectors and testers of electronic, electrical, mechanical, etc. products; vocational instructors; technicians (medical, engineering, architectural, dental, physical science, life science, library, etc.); pilot; broker; designer; quality inspector etc.

Annexure 3 of the Regulations to the Employment Equity Act

EEA 10

4. Clerks

This group includes occupations whose main tasks require the knowledge and experience necessary to organise, store, compute and retrieve information. The main tasks consist of performing secretarial duties, operating word processors and other office machines, recording and computing numerical data, and performing a number of customer orientated clerical duties, mostly in connection with mail services, money-handling operations and appointments. Includes all clerical work, regardless of difficulty, in which the activities are predominantly non-manual. Includes: bookkeepers; tellers; cashiers; collectors (bills and accounts); messengers and office helpers; office machine operators; mail clerks; typists; telephone operators; electronic data processing equipment operators; clerks (production, shipping and receiving, stock, scheduling, ticket, freight, library, reception, travel, hotel, personnel, statistical, general office); secretaries etc.

5. Service and Sales Workers

This group includes occupations whose main tasks require the knowledge and experience necessary to provide personal and protective services and to sell goods in shops or markets. The main tasks consist of providing services related to travel, housekeeping, catering, personal care, protection of individuals and property, and maintaining law and order, or selling goods in shops or markets.

Includes: attendants (hospital and other institutions, including nurses' aides and orderlies); barbers; bartenders; guides; food and beverage serving occupations; housekeepers; childcare occupations; conductors; fire-fighters; police officers; advertising agents; real estate agents; sales workers and sales clerks; shop attendants; stock brokers; insurance brokers; travel agents; sales people of technical and business services; etc.

6. Skilled Agricultural and Fishery Workers

This group includes occupations whose main tasks require the knowledge and experience necessary to produce farm, forestry and fishery products. The main tasks consist of growing crops, breeding or hunting animals, catching or cultivating fish, conserving and working forests, and selling agricultural and fishery products to purchasers. Includes: farmers; growers; planter; viticulturists; winemakers; skilled horticultural workers; greenkeepers; skilled fishermen/women etc.

7. Craft and Related Trades

This group includes occupations whose main tasks require the knowledge and experience of skilled trades and handicrafts which, among other things, involve an understanding of materials and tools to be used, as well as all stages of the production process, including the characteristics and the intended use of the final product. They are frequently journeymen/women who have received an extensive period of training. The main tasks consist of extracting raw materials, constructing buildings and other structures and making various products, as well as handicraft goods. Includes: miners; quarriers; stoneworkers; bricklayers; stonemasons; carpenters; shopfitters; plasterers; plumbers; electricians; painters; mechanics; glass-makers; locksmiths; sheet metal workers; etc.

Annexure 3 of the Regulations to the Employment Equity Act

EEA 10

8. Plant and Machine Operators and Assemblers

This group includes occupations whose main tasks require the knowledge and experience necessary to operate and monitor large-scale and often highly automated industrial machinery and equipment. The main tasks consist of operating and monitoring of mining, processing, and production machinery and equipment, as well as driving vehicles and driving and operating mobile plant, or assembling products from components. Includes: truck and tractor drivers; bus drivers; paving, surfacing and related occupations; roofers; photographic processors; sound and video recording equipment operators; those in apprenticeship training; textile workers; production machine workers etc.

9. Elementary Occupations

This group covers occupations which require relatively low/elementary levels of knowledge and experience necessary to perform mostly simple and routine tasks, involving the use of hand held tools and in some cases considerable physical effort, and, with few exceptions, limited personal initiative and judgement. The main tasks consist of selling goods in streets, door-keeping and property watching, as well as cleaning, washing, pressing, and working as labourers in the fields of mining, agriculture and fishing, construction and manufacturing. Includes: news and other vendors; garage attendants; car washers and greasers; gardeners; farm labourers; unskilled railway track workers; labourers performing lifting, digging, mixing, loading, and pulling operations; garbage collectors; stevedores; sweepers; charworkers etc.

Code of Good Practice: Preparation, implementation and monitoring of Employment Equity Plans

No. R. 1394

23 November 1999

DEPARTMENT OF LABOUR

EMPLOYMENT EQUITY ACT, 1998 (Act No. 55 of 1998)

Code of good practice: Preparation, implementation and monitoring of Employment Equity Plans

Notice is hereby given under Section 54 of the Employment Equity Act, 1998, that the Minister of Labour, having been advised by the Commission for Employment Equity, has issued a Code of Good Practice on the preparation, implementation and monitoring of an Employment Equity Plan, as set out in this schedule.

SCHEDULE

CODE OF GOOD PRACTICE

PREPARATION, IMPLEMENTATION, AND MONITORING OF EMPLOYMENT EQUITY PLANS

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Code of Good Practice: Preparation, implementation and monitoring of Employment Equity Plans

1. OBJECTIVE

The objective of this code is to provide guidelines of good practice, in terms of the requirements of the Employment Equity Act, 1998 (Act No 55 of 1998) (*hereafter referred to as "the Act"*), for the preparation and implementation of an employment equity plan (*hereafter referred to as "the plan"*).

2. LEGAL FRAMEWORK

- 2.1 This code is issued in terms of Section 54 of the Act, and relates to Section 20.
- 2.2 This code does not impose any legal obligations in addition to those in the Act and the failure to observe it does not, by itself, render a designated employer liable in any proceedings, except where the code refers to obligations that are required by the Act.
- 2.3 When interpreting the Act, any relevant code of good practice must be taken into account.¹

3. SCOPE

- 3.1 This code is relevant to all employers that are regarded as designated employers in the Act.²
- 3.2 Designated employers and the employees of designated employers should apply the guidelines set out in this code to develop their employment equity plans, taking into account the specific circumstances of their own organisations.
- 3.3 This code may be read in conjunction with other codes of good practice that may be issued by the Minister of Labour.

¹ Section 3(c) of the Act.

² See the definition of "designated employer" in the Act.

*Code of Good Practice: Preparation, implementation and monitoring of Employment Equity Plans***4. PURPOSE AND RATIONALE FOR THE PLAN**

4.1 The plan reflects a designated employer's employment equity implementation programme.

4.2 The plan represents the critical link between the current workforce profile and possible barriers in employment policies and procedures, and the implementation of remedial steps to ultimately result in employment equity in the workplace.

5. STRUCTURE OF THE PLAN

5.1 The plan may be a separate document or a component of a broader document such as a business plan.

5.2 In terms of the manner in which it is set out, the plan may closely follow the sections of the Act and the relevant items of the Code, or may be organised differently, as long as the statutory requirements in Section 20 of the Act are reflected in the plan.

5.3 The plan should be accessible and structured in such a way that it is easy to understand.

6. PROCESS FOR CONSTRUCTING A PLAN

6.1 The development of a plan should be undertaken as an inclusive process that will result in a documented plan.

6.2 The process of developing a plan has three sequential phases: planning, development, and implementation and monitoring.

6.3 The planning phase of the process should include –

- assignment of responsibility and accountability to one or more senior managers;
- a communication, awareness and training programme;
- consultation with relevant stakeholders;
- an analysis of existing employment policies, procedures, and practices;
- an analysis of the existing workforce profile;
- an analysis of relevant demographic information such as that contained in form EEA 8; and
- an appropriate benchmarking exercise, such as comparing the organisation's workforce profile with those of other organisations within the same sector, or the development of other meaningful comparisons.

Code of Good Practice: Preparation, implementation and monitoring of Employment Equity Plans

6.4 In the development phase, in consultation with the identified role players, should include –

- objectives set;
- corrective measures formulated;
- time frames established;
- the plan drawn up;
- resources identified and allocated for the implementation of the plan; and
- the plan communicated.

6.5 Implementation and monitoring is an ongoing process and should continue to include components of the earlier phases, such as consultation, communication, awareness and training. This phase should include –

- Implementation;
- monitoring and evaluating progress;
- reviewing the plan; and
- reporting on progress.

7. PLANNING PHASE

7.1 Assignment of senior manager³

7.1.1 The planning phase should commence with the assignment of one or more senior managers who should have the responsibility for the development, implementation and monitoring of the plan. They should –

- be permanent employees; and
- report directly to the Chief Executive Officer.

7.1.2 The assignment of one or more senior managers implies that –

- the employer should also provide the assigned managers with the necessary authority and means, such as an appropriate budget, to perform their allocated functions;
- the employer is not relieved of any duty imposed by this Act or any other law; and
- the employer should take reasonable steps to ensure that these managers perform their allocated functions. This could be done through the incorporation of key employment equity outcomes in performance contracts of the responsible managers as well as line managers throughout the organisation.

³ See section 24 of the Act.

*Code of Good Practice: Preparation, implementation and monitoring of Employment Equity Plans***7.2 Communication, Awareness and Consultation⁴**

7.2.1 All employees should be made aware and informed of –

- the content and application of the Act as preparation for their participation and consultation;
- employment equity and anti-discrimination issues;
- the proposed process to be followed by the employer;
- the advantages to employees of participation in the process; and
- the need for the involvement of all stakeholders in order to promote positive outcomes.

7.2.2 Employers are required to consult with regard to conducting an analysis, the preparation and implementation of the plan, and the submission of employment equity reports to the Department of Labour.

7.2.3 To ensure the successful implementation of a plan, employers should make every effort to include employee representatives in all aspects of the plan, especially the planning and development phases.

7.2.4 Managers should be informed of their obligations in terms of the Act, and training should be provided to them where particular skills do not exist. Examples of required training could include diversity management, coaching and mentoring programmes.

7.2.5 The communication of an employment equity strategy should focus on positive outcomes, such as the better utilisation of all of the employer's human resources and the creation of a diverse and more productive workforce.

7.2.6 Communication should also include employees from non-designated groups⁵ and focus on the contribution that can be made by them.

7.2.7 Consultation with employees should commence as early as possible in the process.

7.2.8 A consultative forum should be established or an existing forum utilised. The forum should include employee representatives reflecting the interests of employees from both designated and non-designated groups and across all occupational categories and levels of the workforce. Representative trade unions, where these exist, or

⁴ See sections 16 and 17 of the Act.

⁵ See the definition of "designated groups" in the Act.

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representatives nominated by such trade unions must be included in the consultation process.

7.2.9 The employer should be represented by one or more members of senior management.

7.2.10 Consultation would include –

- the opportunity to meet and report back to employees and management;
- reasonable opportunity for employee representatives to meet with the employer;
- the request, receipt and consideration of relevant information, and
- adequate time allowed for each of these steps.

7.2.11 To ensure an informed and constructive consultation process, structured and regular meetings of the consultative forum or forums should be held.

7.2.12 The disclosure of relevant information by designated employers is vital for the successful implementation of the plan. Such information could include –

- the particular business environment and circumstances of the employer;
- information relating to the relevant economic sector or industry;
- relevant local, regional, and national demographic information relating to the economically active population;
- the anticipated growth or reduction of the employer's workforce;
- the turnover of employees in the employer's workforce;
- the internal and external availability for appointment or promotion of suitably qualified people from the designated groups;
- the degree of representation of designated employees in each occupational category and level in the employer's workforce; and
- employment policies and practices of the employer.

7.2.13 All parties should, in all good faith, keep an open mind throughout the process and seriously consider proposals put forward.

7.2.14 Where a representative body or trade union refuses to take part in the consultation process, the employer should record the circumstances, in writing, including those steps that the employer has taken to communicate and initiate the

Code of Good Practice: Preparation, implementation and monitoring of Employment Equity Plans

consultation process. A copy of this document should be provided to the representative body or trade union concerned.

7.3 Conducting an analysis⁶

The purpose of the analysis is –

- a) to assess all employment policies, practices, procedures, and the working environment so as to –
 - identify any barriers that may contribute to the under-representation or under-utilisation of employees from the designated groups;
 - identify any barriers or factors that may contribute to the lack of affirmation of diversity in the workplace;
 - identify other employment conditions that may adversely affect designated groups;
 - identify practices or factors that positively promote employment equity and diversity in the workplace; and
- b) to determine the extent of under-representation of employees from the designated groups in the different occupational categories and levels of the employer's workforce.

While the first type of analysis is of a more qualitative and legal nature, the second is mainly a statistical and data processing exercise.

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

A review of all employment policies, practices, procedures, and of the working environment should be undertaken in order to identify any barriers that may be responsible for the under-representation or under-utilisation of employees from designated groups.

- a) The review should include a critical examination of all established policies, practices, procedures and working environment. These would include –
 - employment policy or practices, such as recruitment, selection, pre-employment testing, and induction that could be biased, inappropriate, or unaffirming;
 - practices related to succession and experience planning, and related promotions and transfers to establish whether designated groups are excluded or adversely impacted;
 - utilisation and job assignments to establish whether designated groups are able to meaningfully participate and contribute;

⁶ See section 19 of the Act.

Code of Good Practice: Preparation, implementation and monitoring of Employment Equity Plans

- current training and development methodologies and strategies, including access to training for designated groups;
 - remuneration structures and practices such as equal remuneration for work of equal value;
 - employee benefits related to retirement, risk, and medical aid to establish whether designated groups have equal access;
 - disciplinary practices that may have a disproportionately adverse effect on designated groups and that may not be justified;
 - working conditions that may not accommodate cultural or religious differences, such as the use of traditional healers and observance of religious holidays;
 - the number and nature of dismissals, voluntary terminations and retrenchments of employees from designated groups that may indicate internal or external equity-related factors contributing to such terminations;
 - corporate culture, which may be characterised by exclusionary social and other practices;
 - practices relating to the management of HIV/AIDS in the workplace, to ensure that people living with HIV/AIDS are not discriminated against; and
 - any other practices or conditions that are tabled arising out of the consultative process.
- b) All practices should be assessed in terms of cross-cultural and gender fairness.
- c) The review should take into account more subtle or indirect forms of discrimination and stereo-typing which could result in certain groups of people not being employed in particular jobs, or which could preclude people from being promoted. Examples would include pregnancy, family responsibility⁷, exclusionary social practices, sexual harassment, and religious or cultural beliefs and practices.

7.3.2 Workforce profile

- a) The first step in conducting an analysis of the workforce profile is to establish which employees are members of designated groups. This information should be obtained from employees themselves, either from a declaration as provided for in Regulation 2(1) or from existing and dependable sources. An example of an existing and dependable source would be an employer's database that contains the information required on employment application forms. If such existing records are utilised for this purpose, each employee should have the opportunity to verify or request changes to this information.

⁷ See the definition of "family responsibility" in the Act.

Code of Good Practice: Preparation, implementation and monitoring of Employment Equity Plans

- b) An analysis of the workforce profile should provide a comparison of designated groups by occupational categories and levels to relevant demographic data. Form EEA 8 contains some demographic data for this purpose, but there are many other sources of information that could be utilised and might be more relevant.
- c) In addition to the demographics, both the availability of suitably qualified people from designated groups in the relevant recruitment area, as well as the internal skills profile of designated employees, should be taken into account. The 'relevant recruitment area' is that geographic area from which the employer would reasonably be expected to draw or recruit employees.
- d) Recruitment areas may vary depending upon the level of responsibility and the degree of specialisation of the occupation. Usually, the higher the degree of responsibility or specialisation required for the job, the broader the recruitment area.
- e) The standard occupational classification as defined in form EEA 10 should form the basis for determining occupational categories. Occupational levels could be determined by any of the professional job grading systems (Paterson, Peromnes, Hay, etc.) or their equivalents as detailed in form EEA 9. In the absence of a formal job grading system, designated employers may use equivalent occupational levels as the basis for the workforce analysis.
- f) Sections B and C of the Employment Equity Report as defined by form EEA 2 should guide employers in establishing information requirements to develop a plan, and provide the basis for developing a workforce profile.

8. DEVELOPING THE PLAN

8.1 Duration of the plan⁸

The duration of the plan should be for a period that will allow the employer to make reasonable progress towards achieving employment equity. This period should be no shorter than one year and no longer than five years, as specified in the Act.

8.2 Broad objectives of the plan

The broad objectives of the plan should be specified and a timetable developed for the fulfilment of each objective. These objectives should -

- take into account the output of the planning phase;

⁸ See section 20(2)(e) of the Act.

Code of Good Practice: Preparation, implementation and monitoring of Employment Equity Plans

- take into account the particular circumstances of the employer; and
- be aligned with and included in the broader business strategy of the employer.

8.3 Affirmative action measures⁹

8.3.1 Affirmative action measures, to address the barriers identified during the analysis, should be developed to improve the under-representation of designated group members. Such measures relate to, but are not limited to the following:

- **Appointment of members from designated groups**

This would include transparent recruitment strategies such as appropriate and unbiased selection criteria and selection panels, and targeted advertising.

- **Increasing the pool of available candidates**

Community investment and bridging programmes can increase the number of potential candidates.

- **Training and development of people from designated groups**

These measures include access to training by members of designated groups, structured training and development programmes like learnerships and internships; on the job mentoring and coaching, and accelerated training for new recruits. Where required, diversity training should be provided to responsible managers, as well as training in coaching and mentoring skills.

- **Promotion of people from designated groups**

This could form part of structured succession and experience planning and would include appropriate and accelerated training.

- **Retention of people from designated groups**

Retention strategies would include the promotion of a more diverse organisational culture; an interactive communication and feedback strategy; and ongoing labour turnover analysis.

- **Reasonable accommodation¹⁰ for people from designated groups**

These measures include providing an enabling environment for disabled workers and workers with family responsibilities so that they may participate fully and, in so doing, improve productivity. Examples of reasonable accommodation are accessible working areas, modifications to buildings and facilities, and flexible working hours where these can be accommodated.

- **Steps to ensure that members of designated groups are appointed in such positions that they are able to meaningfully participate in corporate decision-making processes**

⁹ See sections 15 and 20(2)(b) of the Act.

¹⁰ See the definition of "reasonable accommodation" in the Act.

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A conscious effort should be made to avoid all forms of tokenism. Candidates must be appointed with commensurate degrees of authority.

- **Steps to ensure that the corporate culture of the past is transformed in a way that affirms diversity in the workplace and harnesses the potential of all employees**

Such steps could include programmes for all staff, including management, contextualising employment equity and sensitising employees with regard to the grounds of discrimination such as race, diversity, gender, disability, and religious accommodation.

- **Any other measures arising out of the consultative process**

8.3.2 All corrective measures to eliminate any barriers identified during the analysis should be specified in the plan.

8.3.3 The employer is under no obligation to introduce an absolute barrier relating to people who are not from designated groups, for example having a policy of not considering white males at all for promotion or excluding them from applying for vacant positions.

8.4 Numerical goals¹¹

8.4.1 Numerical goals should be developed for the appointment and promotion of people from designated groups. The purpose of these goals would be to increase the representation of people from designated groups in each occupational category and level in the employer's workforce, where under-representation has been identified and to make the workforce reflective of the relevant demographics as provided for in form EEA 8.

8.4.2 In developing the numerical goals, the following factors should be taken into consideration –

- The degree of under-representation of employees from designated groups in each occupational category and level in the employer's workforce;
- present and planned vacancies;
- the provincial and national economically active population as presented in form EEA 8;
- the pool of suitably qualified persons from designated groups, from which the employer may be reasonably expected to draw for recruitment purposes;
- present and anticipated economic and financial factors relevant to the industry in which the employer operates;
- economic and financial circumstances of the employer;

¹¹ See section 20(2)(c) of the Act.

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- the anticipated growth or reduction in the employer's workforce during the time period for the goals;
- the expected turnover of employees in the employer's workforce during the time period for the goals; and
- labour turnover trends and underlying reasons, specifically for employees from designated groups.

8.5 Consensus

In setting objectives and developing corrective measures, parties to the consultative processes should attempt to reach consensus on what would constitute reasonable progress over the duration of the plan.

8.6 Resources

Resources, including budgets, should be appropriately allocated in order to implement the agreed components of the plan.

8.7 Assignment of responsibility

Responsibility for implementation and monitoring of the plan, as assigned during the planning phase, should be confirmed and noted.

8.8 Dispute Resolution

8.8.1 Internal procedures for resolving any dispute about the interpretation and implementation of the plan should be agreed and specified.

8.8.2 The use of existing dispute resolution procedures should be encouraged provided that they are appropriate, and if necessary adapted to the needs of employment equity.

8.8.3 Alternatively, a mechanism with appropriate representation from employer and employees may be established in order to address and resolve such disputes.

8.9 Communication

8.9.1 The plan should be appropriately and comprehensively communicated to employees. This communication mechanism should indicate the parties responsible for the implementation of the plan and the agreed dispute resolution procedures. Information about the plan should be easily accessible to all levels of employees.

*Code of Good Practice: Preparation, implementation and monitoring of Employment Equity Plans***9. MONITORING AND EVALUATING THE PLAN**

- 9.1 Records should be kept to effectively monitor and evaluate the plan.
- 9.2 Mechanisms to monitor and evaluate the implementation of the plan should be agreed and include benchmarks that would permit assessment of reasonable progress.
- 9.3 The plan should be evaluated at regular intervals to ensure that reasonable progress is made. This evaluation should be integrated into mechanisms that the employer normally utilises to monitor its operations.
- 9.4 The consultative forum(s) should continue to meet on a regular basis, and should receive progress reports. Progress should be recorded and communicated to employees. Such meetings should take place at reasonable intervals to ensure feedback and inform the ongoing implementation process.
- 9.5 The plan should be reviewed and revised, as necessary, through consultation.

9.6 Reporting¹²

- 9.6.1 Larger employers, with 150 or more employees, will be required to submit first reports by 1 June 2000 and thereafter annually on the first working day of October, starting in 2001.
- 9.6.2 Smaller employers, with fewer than 150 employees, will be required to submit their first reports by 1 December 2000 and thereafter every second year, on the first working day of October, starting in 2002.
- 9.6.3 The reporting format for employers is contained in the Employment Equity Report as defined in form EEA 2.
- 9.6.4 Designated employers whose operations extend across different geographical areas, functional units, workplaces or industry sectors may elect to submit either a consolidated or a separate report for each of these. This decision should be made by employers after consultation with the relevant stakeholders.

¹² See section 21 of the Act.

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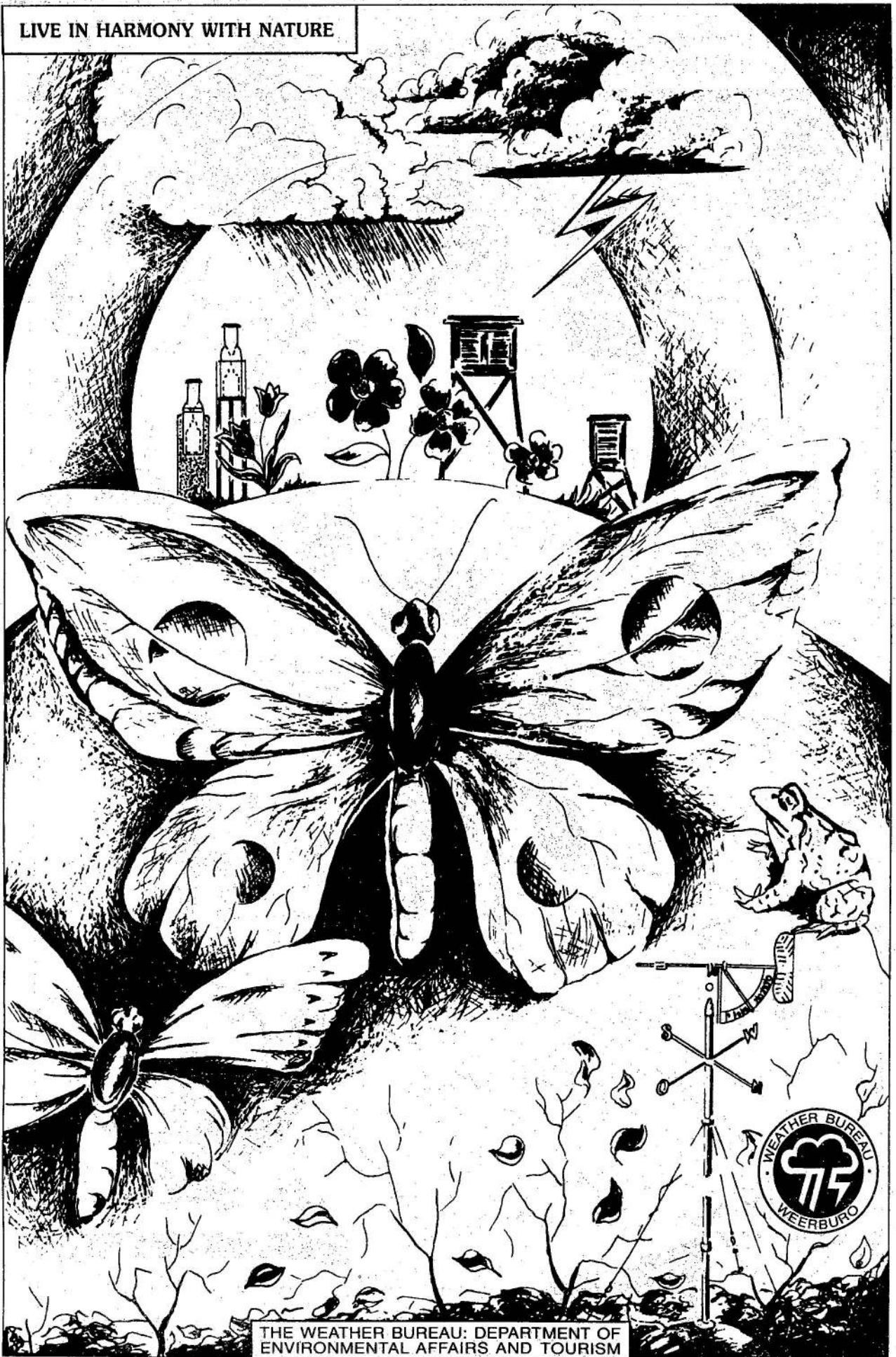
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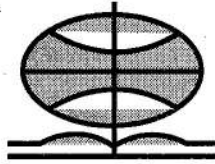


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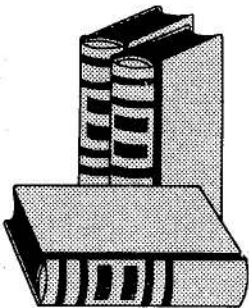
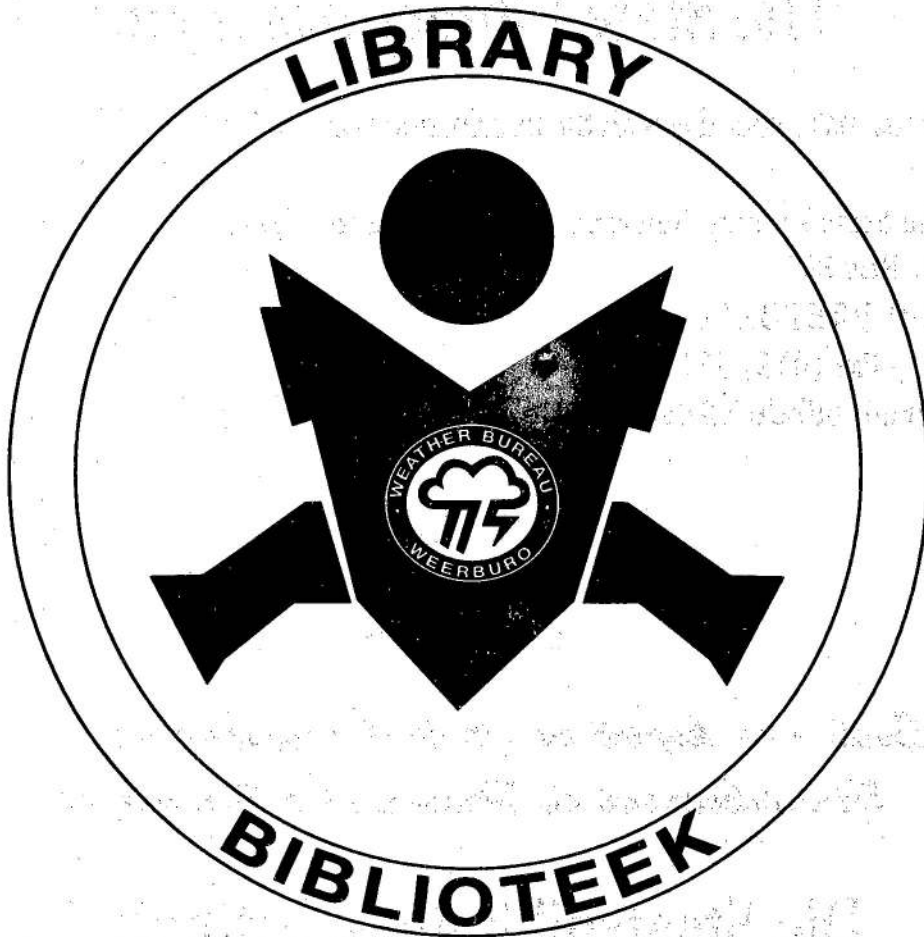
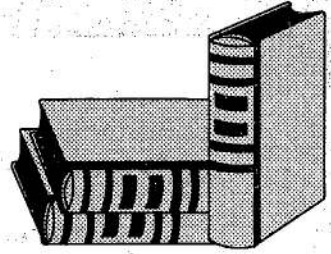
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