

JOBLAW

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04 August 2015

Circular 7 of 2015

Dear Client

RE: EMPLOYMENT EQUITY (EE)

Our Circular 12 of 2013 refers.

It has come to our attention that the Department of Labour has instituted court action against companies that have failed to comply with the Employment Equity Act.

You are reminded that the following 3 groups of Employers / Companies are obliged to comply with the provisions of the EE Act and Regulations:

1. Employers with 50 or more employees;
2. Employers with less than 50 employees who's annual turnover is equal to or exceeds the threshold as per annexure "A" hereto; and
3. Employers who need a B-BBEE Certificate.

Failure to comply with the provisions of the Employment Equity Act (which includes the submission of EE Reports to Dept of Labour and the drafting of EE Plans) may lead to the fines as set out in schedule 1 of the EE Act, as per annexure "B" hereto.

For your convenience we again attach an Employment Equity compliance checklist hereto as annexure "C".

Please do not hesitate to call us should you need any information or assistance.

JobLaw regards



LEON LANGEVELD
CEO

Directors
Adv. L.J. Langeveld (B.Iuris, LLB); Mr. A.E. Steyn; Mr. C. Swanepoel (LLB)

APPROVED MEMBER OF AHI EMPLOYERS ORGANISATION Reg. No. LR2/6/3/475

Annexure “A”**SCHEDULE 4: TURNOVER THRESHOLD APPLICABLE TO DESIGNATED EMPLOYERS**

<u>Sector or subsectors in accordance with the Standard Industrial Classification</u>	<u>Total annual turnover</u>
Agriculture	R 6,000,000
Mining and Quarrying	R 22,500,000
Manufacturing	R 30,000,000
Electricity, Gas and Water	R 30,000,000
Construction	R 15,000,000
Retail and Motor Trade and Repair Services	R 45,000,000
Wholesale Trade, Commercial Agents and Allied Services	R 75,000,000
Catering, Accommodation and other Trade	R 15,000,000
Transport, Storage and Communications	R 30,000,000
Finance and Business Services	R 30,000,000
Community, Special and Personal Services	R 15,000,000

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Substitution of Schedule 1 to Act 55 of 1998

27. The following Schedule is hereby substituted for Schedule 1 to the principal Act:

"Schedule 1

**MAXIMUM PERMISSIBLE FINES THAT MAY BE IMPOSED FOR
CONTRAVENING THIS ACT**

This Schedule sets out the maximum fine that may be imposed in terms of this Act for the contravention of certain provisions of this Act.

<i>Previous Contravention</i>	<i>Contravention of any Provision of sections 16 (read with 17), 19, [20, 21,] 22, 24, 25, 26 and [23] 43(2)</i>	<i>Contravention of any Provision of sections 20, 21, 23 and 44(b)</i>
No previous contravention	[R500 000] <u>R1 500 000</u>	The greater of <u>R1 500 000</u> or <u>2% of the employer's turnover</u>
A previous contravention in respect of the same provision	[R600 000] <u>R1 800 000</u>	The greater of <u>R1 800 000</u> or <u>4% of the employer's turnover</u>
A previous contravention within the previous 12 months or two previous contraventions in respect of the same provision within three years	[R700 000] <u>R2 100 000</u>	The greater of <u>R2 100 000</u> or <u>6% of the employer's turnover</u>
Three previous contraventions in respect of the same provision within three years	[R800 000] <u>R2 400 000</u>	The greater of <u>R2 400 000</u> or <u>8% of the employer's turnover</u>
Four previous contraventions in respect of the same provision within three years	[R900 000] <u>R2 700 000</u>	The greater of <u>R2 700 000</u> or <u>10% of the employer's turnover</u> ".

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Employment Equity Legal Compliance Checklist :

Duty	Yes / No ?
Report to Department of Labour (EEA2 & EEA4)	
Draft <u>and</u> Implement a LEGALLY COMPLIANT EE Plan	
Conduct an EE Analyses of Company Policies , Practices , Procedures , Work Environment & Workforce to ID Barriers to EE	
Implement Affirmative Action Measures with <u>specific</u> time frames	
All employees must complete an EEA1	
Appointment of an EE Manager	
Election & Appointment of a REPRESENTATIVE EE Forum	
EE Forum Constitution	
Consultation : Minutes of EE Forum Meetings	
Policies : Employment Equity , Sexual Harassment , HIV/AIDS & TB	
Training : ALL employees - EE , Diversity & Discrimination	
Summary of the EE Act Displayed	
Latest EEA2 and Minutes of EE Forum Meeting Displayed	

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