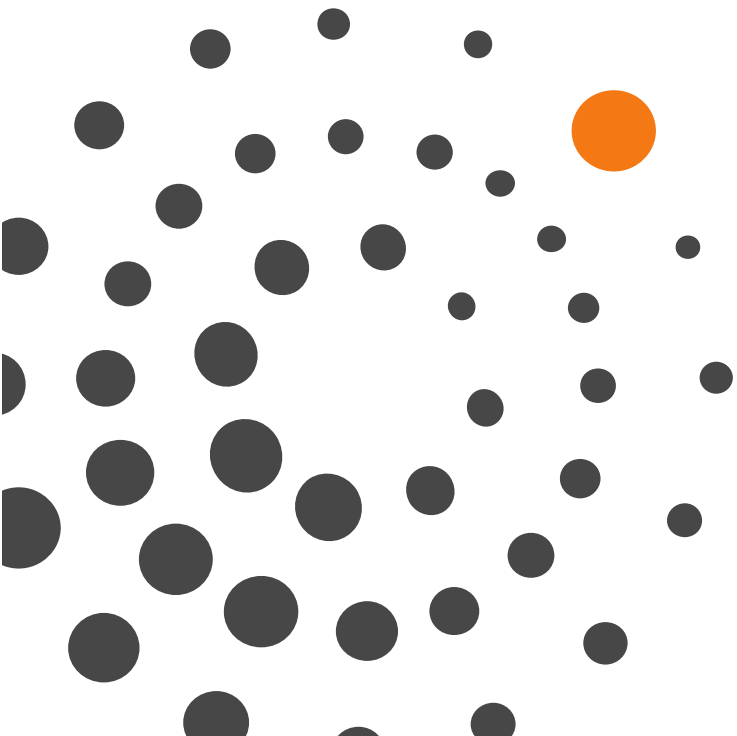


# ***EMPLOYMENT EQUITY***



# Session Objectives

- Employment Equity Amendment Bill Update;
- Employment Equity Amendment Bill Changes;
- Employment Equity Do's & Don't's

# Employment Equity Amendment Bill of 2018 Update

The Amendment Bill was released for Public Comment in October 2018 and tabled to Parliament in July 2020. The parliamentary portfolio committee on employment and labour called for further public comment on the bill at the end of 2020 and adopted the bill at the end of August 2021. The bill was debated in Parliament earlier this month but could not be passed as not enough members of The National Assembly attended the vote to pass the long-awaited bill – a quorum could not be reached.

The DoEL hoped that the EE Amendment Bill would be passed through Parliament by early 2022. However due to the recent failure of the National Assembly to vote on the Bill there is concern that it could take another six months for the bill to get back to the National Assembly for voting, given that Parliament is adjourned until the beginning of November due to the local government elections.

After the Bill is passed through the National Assembly it will be sent to the National Council of Provinces where it can either be passed by a majority of votes, or if the National Council of Provinces does not pass the Bill, it will be referred to the National Assembly where it can be passed with a two thirds majority. Once the Bill has been passed, the last step is for the President to sign it into law.

# Employment Equity Amendment Bill of 2018 Changes

The Bill proposes a number of changes to the Employment Equity Act, 1998, notably:

1. Section 15 of The Bill empowers the Minister of Employment and Labour to identify national economic sectors and then determine numerical employment equity targets for these sectors after consultation with the Employment Equity Commission and “relevant stakeholders”. The Minister may further set different numerical targets for different occupational levels, or regions within a sector based on any other relevant factors. A draft of any sector targets notice must be published in the Gazette and interested parties must be permitted at least 30 days to comment on the draft notice.

Sector engagements on sector targets started in 2019. By June 30, 2021, the DoEL had engaged with all 18 economic sectors and concluded an agreement with the Financial and Business Services Sector. According to the DoEL they are currently analysing written submissions in response to proposed sector targets from the remaining 17 sectors with the view of conducting follow-up consultations. They envisage that the sector engagements will be concluded by February 2022.

# Employment Equity Amendment Bill of 2018 Changes

2. Section 42 is amended to clarify that a designated employer's compliance with its obligations to implement affirmative action may be measured against the demographic profile of either the national or the regional economically active population. In addition, **compliance may be measured against the sectoral targets** set by the Minister terms of section 15A.

In anticipation of the amendment the DoEL has stated that “the introduction of five-year sector targets will mark the beginning of a clean slate. “All current EE plans will fall away on 22 September 2022 and the new plans will have to be aligned with five-year targets”.

From **2022 reporting** period all reports and plans **must be based on 5-year plan aligned to sector targets**.

3. In section 2 the **definition of a designated employer is amended** in by **repealing** paragraph (b) which classified employers with **fewer than 50 employees** who meet a **turnover threshold** as designated employers.

# Employment Equity **Amendment Bill** of 2018 **Changes**

4. From **2023** the online reporting system will assess whether you have achieved the annual target set in previous year for achieving 5-year target.

If not achieved, you can enter **valid reasons for not achieving** (EEA15 form in Draft EE Regulations).

**Grounds to be considered as justifiable:**

Insufficient recruitment, promotion opportunities and or Target individuals from designated groups

Insufficient CCMA/Court Order

Transfer of business

Merger/Acquisitions

Impact on business economic circumstances e.g, impact of COVID pandemic on business

# Employment Equity Amendment Bill of 2018 Changes

5. Section 53 is amended to provide that, in future, **state contracts may only be issued to employers that have been certified by the Minister** of Employment and Labour as being in compliance with their obligations under the Act.

The Minister may only issue a Certificate of Compliance **if the Minister is satisfied that the employer:**

- **Has met any sectoral targets** that applies to it or has provided reasonable grounds justifying its failure to comply;
- Has submitted an **Employment Equity Report**
- Has **not been found** by the CCMA or a court within the previous twelve months **to have breached** the prohibition on **unfair discrimination** or **failed to pay** the national minimum wage.

# Employment Equity **Amendment Bill** of 2018 **Changes**

Can request an **online compliance certificate** off the EE reporting system **if**:

1. Annual targets achieved or not achieved but with valid reasons, and
  2. Submitted EEA2 &4, and
  3. Pay National Minimum Wage, and
  4. No CCMA awards for unfair discrimination
- **All verifications are done online immediately.** Certificate can be requested at any time during the reporting year.
  - If not designated, then can also apply for compliance certificate online by completing EEA15 form. **Two criteria:**
    1. Pay National Minimum Wage
    2. No CCMA awards for unfair discrimination



# Employment Equity Amendment Bill of 2018 Changes

the National Council of Provinces passed the **Employment Equity Amendment Bill** on Tuesday, 17 May 2022. The Bill now sits with the President, who will sign it into law.

The Bill will amend the Employment Equity Act, No 55 of 1998 (EEA), to *inter alia*, empower the Employment and Labour Minister to **determine sectoral numerical targets**.

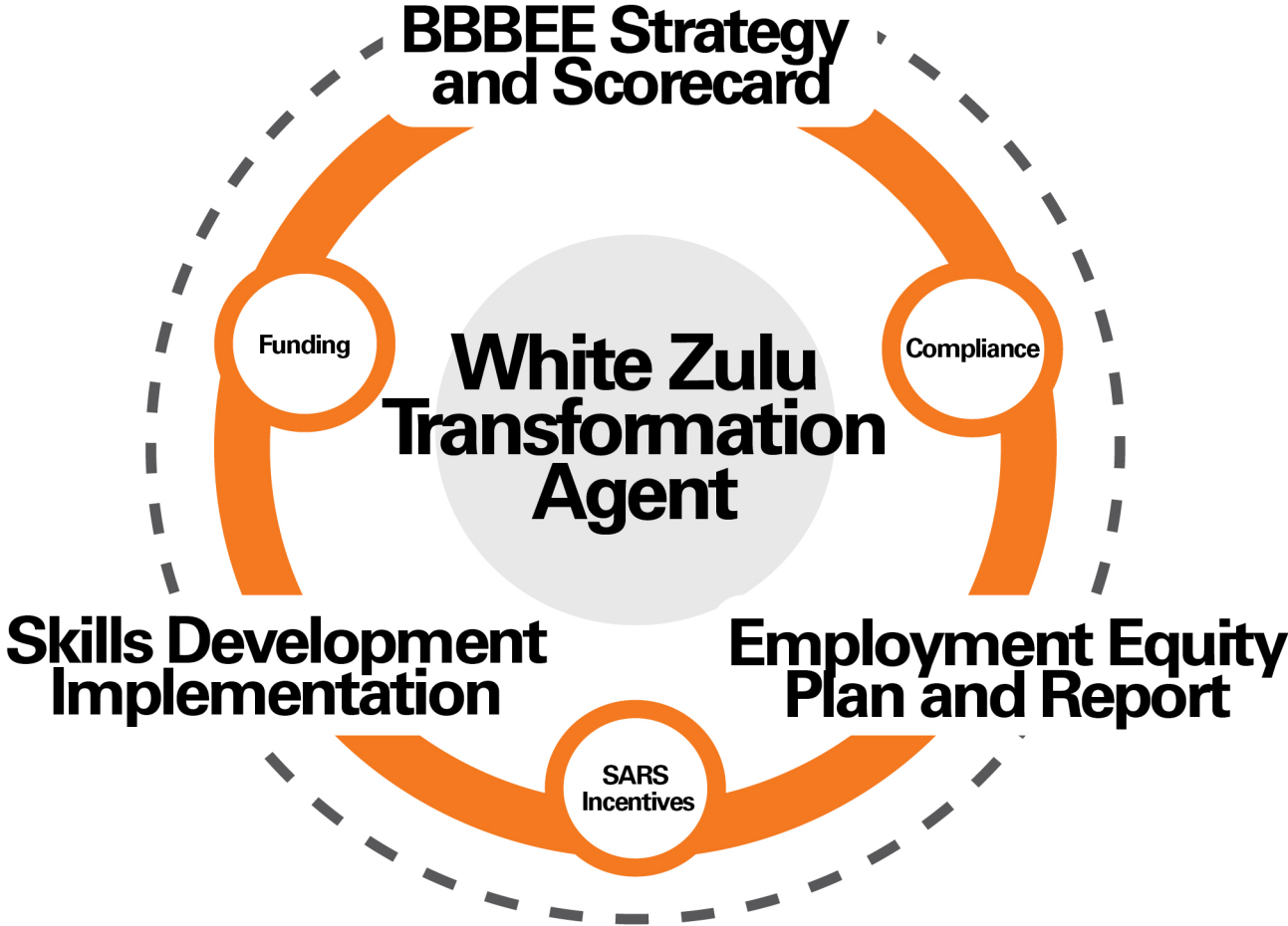
It also amends the definition of a "designated employer" **by excluding employers who employ fewer than 50** employees, regardless of their annual turnover. This means that those employers will not be subject to the affirmative action provisions of the EEA.

**We will notify you as soon as** the President assents to the Bill.

# Employment Equity DO'S & DON'T's

DO's	DON'T's
If you no longer comply, deregister before 31 August each year	Don't stop submitting progress reports, even if no targets and or barriers and or the EE plan finalised
If you are designated, always submit an EE Report, even if you have not identified targets or barriers or have no EE Plan. If no report is submitted, you will be flagged for audit	Don't change the duration of the current EE plan and/or submission of progress reports, even if you see that your company will not be designated with the 2022 cycle.
Make sure that the staff profile and movements (appointments, promotions, terminations) reported reconciles back to the staff profile reported the previous year. If there are discrepancies, you may be flagged for audit. For this reason, keep accurate records of your employee data and keep it for at least 5 years	
Set targets based on vacancies created by growth and staff turnover Keep accurate records of all EE related reports, plans, committee meetings, staff communication, and keep on file for at least 5 years	
The appointed EE Manager will have access to remuneration information	10

**WZ Star Services Compliance, Benefits, Incentives, Funding**



## Employment Compliance and Empowerment Solutions

**whitezulu**

### ○ Design Empowerment & Compliance Solutions

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Identify, analyse and evaluate client requirements  
Propose integrated value adds  
Coordinate service partnerships  
Representation and involvement at industry forums  
Awareness of legislative requirements and changes  
Client and stakeholder capacitation

**Powered by:**  
Chantel Slabbert  
Anamari Wessels

### ○ Administer Compliance Solutions

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Employment Equity planning & reporting  
Skills Development planning & reporting  
Grant/funding applications and contract management  
BEE Scoring, reporting and verification preparation

**Powered by:**  
Anamari Wessels  
Chantel Slabbert  
Janis Tennant  
Lauren Kalvari

### ○ Implement Solutions

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Recruitment  
Learner tracking and placement  
Training Provider identification  
Host Employers for offsite training solutions  
Youth Employment Service (Y.E,S) Calculation, set up and implementation

**Powered by:**  
Anamari Wessels  
Chantel Slabbert

## Our Full Service Bouquet

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Since 2004 White Zulu has specialised in services including compliance administration in skills development, employment equity and BBBEE. We serve clients in all sectors e.g. Transport and Logistics, Finance and Accounting, Services, ICT, Mining, Manufacturing and Engineering and Tourism sectors. Our “custom-craft” solutions meets the challenges of employment compliance and practice. Our services include, but is not limited to:

- Strategy development
- SETA Administration, Facilitation and Project Management, workplace skills planning and reporting
- Scoping Special Projects (linked to transformation)
- Grant/Funding Applications and Contract Management
- Employment Equity Planning and Reporting (vacancy forecasting)
- Recruitment
- Training Accreditation, Workplace Accreditation
- BBBEE Support, including verification preparation
- Benefits and Incentives Calculator: SARS and other Incentive and Benefit integration (linked to transformation imperatives)
- Hosting clients learnerships/YES Youth/Interns (off site solution)
- Learnership/YES Youth attendance tracking and absorption (linked to contract management, BBBEE Skills Development & YES)

# QUESTIONS AND ANSWERS

# CONTACT DETAILS

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