

# Comply with the amendments to the Employment Equity Act or be exposed to Significant Corporate Risk

The contraversal Amendments to the Employment Equity Act were signed off by President Zuma last week.

Organisations are required to comply with the provisions of the Employment Equity Act (i.e. create an Employment Equity Plan in consultation with employees, and submit an Employment Equity Report to the Department of Labour) if they have **more than 50** employees and/OR have a Gross Annual Turnover that exceeds the Turnover Threshold stipulated for their Industry. As such all organisations with **more than 50 employees are required to comply** with the provisions of the Employment Equity Act. In addition, organisations that have **less than 50 employees will also need to comply** with the Act if their Gross Annual Turnover is **greater than the stipulated Threshold** for their particular Industry.

The most important changes to the Act are the following:

## 1. Increased Industry Thresholds

These Thresholds have been increased and are detailed below:

Industry Sector	Previous Threshold	New Threshold
Agriculture	R2m	R6m
Mining and Quarrying	R7,5m	R22.5m
Manufacturing	R10m	R30m
Electricity, Gas and Water	R10m	R30m
Construction	R5m	R15m
Retail and Motor trade and Repair Services	R15m	R45m
Wholesale Trade, Commercial Agents and Allied Services	R25m	R75m
Catering, Accommodation and other Trade	R5m	R15m
Transport, Storage and Communications	R10m	R30m
Finance and Business Services	R10m	R30m
Community, Social and Personal Services	R5m	R15m

## 2. Increased Fines

The Department of Labour has substantially increased the fines associated with non-compliance with the Employment Equity Act. Fines start at the **greater of R1.5 million or 2% of Gross Annual Turnover** for a first offence, to the **greater of R2.7 million or 10% of Gross Annual Turnover for a fourth offence**. Such fines could financially cripple an organisation.

## 3. Equal Pay for Work of Equal Value

The Amendments to the Act stipulate that employees who do the same or similar work (or work of equal value) must have the same remuneration or conditions of employment, unless the Employer can show that differences are based on fair criteria such as skills, work experience, responsibility, etc. Any variation that cannot be shown to be fair in terms of the above criteria will be seen as **unfair discrimination**, which could lead to legal action and monetary awards.

## 4. Contract Workers

The Amendments to the Act stipulate that contract workers who have been placed by a labour broker with an Employer for longer than 6 months will be **deemed to be permanent employees** of the **Employer** for the purposes of affirmative action.

The Department of Labour is no longer the “toothless tiger” of the past in respect of regulating the implementation of Employment Equity – there has been a significant increase in the number of audits carried out whereby the implementation and progress made in term of organisations’ Employment Equity Plans have been assessed. Where progress has been considered to be inadequate, considerable fines have been imposed.

As such, from a Corporate Risk perspective, if your organisation has more than 50 employees and/or a Gross Annual Turnover greater than the relevant Industry Threshold, it is highly advisable to ensure that the organisation’s Employment Equity affairs are in order.

For further information or for assistance in complying with the Employment Equity Act and implementing its provisions within your organisation, please contact PeopleWise. We would be delighted to meet with you to discuss your particular employment equity requirements and/or to furnish you with a proposal on how we can support you.

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