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## Frequently Asked Questions: Employment Equity Compliance (2025 Update)

Prepared by RK Corporate Consulting (RKCC) | July 2025

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### Introduction

The **Employment Equity Amendment Act, 2022**, which came into operation on **1 January 2025**, represents a seismic shift in South Africa's transformation and equity landscape. Employers must now align with **sector-specific targets**, implement mandatory consultation forums, and comply with tighter reporting requirements or face severe penalties — including **exclusion from state contracts**.

Whether you're a seasoned HR professional or a business owner just trying to keep up, this **FAQ guide** will help you unpack the key issues, common concerns, and practical steps needed to comply before the **1 September 2025** deadline.

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### 1. What is the Employment Equity Amendment Act, and when does it take effect?

The **Employment Equity Amendment Act, 2022** came into operation on **1 January 2025**.

#### Key Provisions Include:

- Gazetted **sector-specific numerical targets**
  - Empowerment of the **Minister of Employment and Labour** to set targets per industry
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- Reduced definition of “**designated employer**” (no longer includes turnover)
- Greater authority for Department of Employment and Labour to **refuse compliance certificates** for state tendering

#### Legislation:

- Employment Equity Amendment Act, No. 4 of 2022
  - Employment Equity Act, 55 of 1998 (as amended)
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## 2. Who qualifies as a designated employer under the new law?

An employer is designated if:

- You employ **50 or more employees**, regardless of turnover; **or**
- You fall within a **sector with gazetted numerical targets**

#### Legal Reference:

- Section 1 of the Employment Equity Amendment Act, 2022

#### Practical Example:

A tech company with 52 employees in Gauteng must comply, even if their turnover is under R5 million per annum.

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## 3. What must be included in an Employment Equity Plan (EEP)?

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Your **EEP** must include:

- Clear **numerical targets** aligned with your sector
- Identification and **elimination of employment barriers**
- Defined **affirmative action measures**
- Roles, responsibilities, and implementation timelines
- **Consultation records** and evidence of stakeholder engagement

**Legislation:**

- Sections 20–21 of the Employment Equity Act

**Case Law:**

- *Solidarity v Department of Correctional Services (2016) ZACC 18*: Reinforced the need for **measurable targets** and not quotas.

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#### **4. Are Employment Equity forums mandatory?**

Yes. **Designated employers** must establish a representative **consultation forum**.

**Forum Requirements:**

- Representative of all occupational levels and demographics
- Includes trade unions where applicable
- Must meet **regularly**, keep **minutes**, and review implementation

**Legal Reference:**

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- Section 16–17 of the Employment Equity Act
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## 5. What are sector-specific targets and where do I find them?

The Minister published **sector-specific targets** in May 2023. These detail required demographic representation by race, gender, and occupational level.

### Where to Access:

- DEL Official Notice: <https://www.labour.gov.za/employment-equity-sector-targets-may2023>

### Practical Example:

A retail company must ensure **African females** are represented in **middle management** at a target percentage as gazetted.

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## 6. How do I complete and submit EEA2 and EEA4 reports?

### Report Types:

- **EEA2:** Employment Equity Report
- **EEA4:** Income Differential Report

### Submission Deadlines:

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- **Online:** Within **30 days** after financial year-end
- **Manual:** By **15 January** each year

#### Submission Portal:

- [DEL Online Reporting System](#)
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### 7. What are the penalties for non-compliance?

Failure to comply may result in:

- Fines of up to **R2.7 million or 10%** of annual turnover
  - Ineligibility for **state tenders**
  - Audits and enforcement from **DEL inspectors**
  - Reputational risk and potential litigation
- 

### 8. Can a small business be exempt from Employment Equity obligations?

Yes. You are **not required to comply** if:

- You employ **fewer than 50 employees**, and
- You do not operate in a **targeted sector**

**However**, if you apply for government contracts, you **must still prove alignment** with EE principles to get a compliance certificate.

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## 9. What tools or templates can help me stay compliant?

We recommend the following tools from RKCC:

- [Employment Equity Plan Template](#)
  - [Barrier Analysis Toolkit](#)
  - [EEA2 & EEA4 Submission Guide](#)
  - [Sector Targets Reference Sheet](#)
- 

## 10. How long should my Employment Equity Plan be valid?

The plan must cover a period of **1 to 5 years** and be **reviewed annually**.

### Legal Reference:

- Section 20(2) of the Employment Equity Act
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## 11. What is the difference between numerical goals and quotas?

- **Numerical goals** are **realistic, flexible targets** based on analysis
- **Quotas** are **rigid, mandatory headcounts**, which are **unlawful** in South Africa

### Case Law:

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- *Solidarity v Department of Correctional Services*: Confirmed that strict quotas may violate fairness and equity principles.

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## 12. What happens if my business doesn't meet its targets?

Failure to meet targets **must be justified** based on:

- Skills shortages
- Insufficient recruitment pools
- Justified operational reasons

You must demonstrate **reasonable progress** and efforts made.

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## 13. What is “reasonable grounds for non-compliance”?

Acceptable reasons may include:

- ✓ Lack of suitably qualified candidates
- ✓ Economic constraints
- ✓ Industry-specific shortages

Your reasons **must be documented** and **discussed in consultation forums**.

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#### 14. What is an Employment Equity Certificate of Compliance and why do I need one?

It is a **legal certificate** issued by Department of Employment and Labour (DEL) confirming your compliance.

It is **mandatory** for:

- Bidding on state tenders
  - Operating in regulated sectors
  - Receiving certain tax incentives
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#### 15. How does RK Corporate Consulting support Employment Equity compliance?

At RKCC, we work hand-in-hand with your organisation to:

- Draft fully compliant Employment Equity Plans
  - Conduct internal barrier and demographic audits
  - Facilitate the setup and training of consultation forums
  - Submit EEA2 and EEA4 reports on your behalf
  - Assist in aligning your workforce with sectoral targets
  - Maintain documentation to withstand DEL audits
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#### 16. Is there a difference between barriers and affirmative action measures?

Yes.

- **Barriers** are obstacles to equity (e.g., inaccessible facilities, biased recruitment).
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- **Affirmative action measures** are proactive strategies to remove them.

**Tool:** Use RKCC's **Barrier Analysis Toolkit** to assess your workplace.

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### 17. Do I need to submit if I only just became a designated employer?

✓ Yes, you have **12 months** to comply after crossing the 50-employee threshold or entering a high-turnover sector.

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### 18. Can I update my EE Plan before the current plan expires?

✓ Yes. You may revise your Plan mid-term if justified (e.g., changes in company size, restructuring, or new targets).

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### 19. How do I know if I'm compliant?

Use the [RKCC Employment Equity Compliance Checklist](#) to review:

- ✓ EE Plan content
  - ✓ Targets alignment
  - ✓ Reports filed
  - ✓ Committee formed
  - ✓ DEL audit readiness
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## 20. What is a Certificate of Compliance and why does it matter?

**Section 53** requires employers to obtain a Certificate of Compliance for participation in:

- ✓ State tenders
- ✓ Public-private partnerships
- ✓ Supply chain networks

### Issuing Body:

Department of Employment and Labour

**Condition:** Full compliance with Plan, Targets, and Reporting.

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## Why Employment Equity Compliance Matters

EE compliance is no longer optional. With the 2025 amendments, it is a **strategic imperative** that impacts your access to state contracts, your BBBEE score, and your broader transformation goals. Failing to comply could lead to **financial penalties**, reputational damage, and disqualification from state tenders.

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## How RK Corporate Consulting Supports Employment Equity Compliance

At RK Corporate Consulting, we offer:

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- ✓ Custom Employment Equity Plans aligned to sector targets
  - ✓ Submission of EEA2 and EEA4 reports
  - ✓ Barrier analysis and committee training
  - ✓ Audit readiness support and DEL liaison
  - ✓ Integration with Skills Development and BBBEE
  - ✓ Free consultation to assess your current compliance position

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### Navigating Compliance with Confidence

Our tailored guidance removes the uncertainty from Employment Equity compliance. With the deadline looming, now is the time to act decisively and align your business strategy with legal obligations.

**Book your free 30-minute Employment Equity compliance consultation today.**

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**Navigating compliance with confidence, we handle the red tape so you can focus on growth.**

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