



Commission for Gender Equality  
A society free from gender oppression and inequality

**SUBMISSION ON EMPLOYMENT EQUITY AMENDMENT BILL, 2020**

**15 February 2021**



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## **1. Introduction**

The Commission for Gender Equality (Commission) is an independent statutory body established in terms of Chapter 9 of the Constitution of the Republic of South Africa, 1996 (Constitution). The Commission has a mandate to promote and protect gender equality in government, civil society, and the private sector.

To this end, the Commission for Gender Equality Act No. 39 of 1996 as amended (CGE Act) gives the Commission the power to monitor and evaluate policies and practices of organs of state at any level, statutory bodies and functionaries, public bodies and authorities and private businesses, enterprises and institutions in order to promote gender equality and make any recommendations that the Commission deems necessary.

The Commission also has the powers to evaluate any act of parliament, make recommendations to parliament or any legislature with regards any law affecting gender equality or the status of women, and may recommend to parliament the adoption of new legislation which will promote gender equality and the status of women.

The Commission welcomes the opportunity to make inputs to the Employment Equity Amendment Bill, 2020.



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## **2. Contextual Background**

The Commission has since 2013 held transformation hearings with specific focus to the private and public sector. This process was initiated following concerns of the underrepresentation of previously disadvantaged groups in various occupational levels. In the private sector, males (mostly white males) dominated managerial positions. From this premise, the Commission observed that the Employment Equity Act 55 of 1998 did not progressively increase the representation of women and persons with disabilities at top management levels in the private sector. To this end, the Commission supports robust measures to accelerate and achieve equity in the private sector.

## **3. Comments**

### **Amendment to Section 1 of the Act**

The Commission notes the insertion of the definition of " National Minimum Wage Commission' it means the Commission established in terms of section 8 of the National Minimum Wage Act No. 9 of 2018: "

The Commission further welcomes the inclusion and definition of people with disabilities. The definition is comprehensive and covers various forms of disabilities and this was a gap that resulted in the exclusion of most persons with disabilities in the workforce. It follows from the hearings of the Commission that employers often argue that employees often do not disclose or declare their disabilities in the workplace. An inclusive definition supported by a diversified workplace



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has the prospects of encouraging employees to declare their disabilities.

### **Insertion of section 15A in the Employment Equity Act 55 of 1998**

The commission welcomes the inclusion of section 15A in Act 55 of the 1998. The inclusion of sectoral targets will proliferate the representation of previous disadvantaged groups in various occupational levels. The Commission submitted that the setting of targets should consider that women and persons with disabilities have been underrepresented despite the Employment Equity Act, 1998 requiring designated employers to put in place affirmative action measures in place to achieve equity. To this end, the sectoral targets should specifically recognize the gender dynamics in the workplace.

### **Amendment of section 20 of Act 55 of 1998, as amended by section 10 of Act 47 of 2013**

The Commission welcomes the proposed amendment to the extent that it will provide employers with the specific targets that need to be achieved. The current format of permitting employers with their discretion to set their own targets as per the employment equity plan, has not resulted in the proliferation of previously disadvantaged groups occupying decision making positions, especially women and persons with disabilities



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## **Designated employer**

The Commission notes the deletion of paragraph b which classified employers with fewer than 50 employees who meet a turnover threshold determined in Schedule 4 to the Employment Equity Act as designated employers. It is noted that this is intended at reducing the regulatory burden on small employers in relation to regulatory provisions dealing with the implementation of Chapter III of the Act. The implication of this is that such employers would not be obliged to comply with the sectoral targets. As such, the Commission has reservations regarding this exclusion of employers to the extent that previously disadvantaged groups of such employers may continue to be underrepresented whilst previously advantaged groups continue to dominate management positions. This will thus reverse the minimal progress made in aiming to include women and persons with disabilities at various occupational levels. To this end, the Commission recommends that the employers with fewer than 50 employees who meet a turnover threshold determined in Schedule 4 to the Employment Equity Act should be retained as designated employers.

## **Amendment of Section 6 of the Employment Equity Act**

The insertion of subsection 2(A) under this section is supported.

## **Amendment to Section 8 of the Employment Equity Act**

The insertion and or additions are welcomed by the Commission and supported in *toto*.



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### **Section 53 of the Employment Equity Act.**

The Commission welcomes the operation of section 53 of the Employment Equity Act which provides that State contracts may only be issued to employers that have been certified as being in compliance with their obligations under the Employment Equity Act.

### **4. Conclusion**

The Commission broadly supports the Bill in so far as it introduces sectoral numerical targets for the purpose of ensuring the equitable representation of suitably qualified people from designated groups (blacks, women and persons with disabilities) at all occupational levels in the workplace.