



**MASTER BUILDERS**  
SOUTH AFRICA

**EMPLOYMENT EQUITY  
AMENDMENT BILL -  
PARLIAMENTARY PRESENTATION**  
22 FEBRUARY 2022

BUILDING SOUTH AFRICA

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# INTRODUCTION TO MASTER BUILDERS SOUTH AFRICA

- A **Federation** of registered employer Associations representing contractors and employers in the construction industry.
- Regulated in terms of Section 107 of the Labour Relations Act 66 of 1995.
- Has eight (8) Master Builders Associations, and two Affiliate Associations, and represent more than 4000 contractors and employers in the industry.
- Formed in 1904, representing the industry on national issues and strives to promote a profitable environment to the benefit of its' members and the community





# SUMMARY

- MBSA and its members are in agreement that equitable representation of suitably qualified people from designated groups in the economy is central to achieving sustainable and meaningful socio-economic development.
- However, the Bill in its current form will have a devastating and negative effect on the building industry and may unintendedly be counter-productive to achieving the transformation objectives it aims to attain.
- This submission is presented with proposals to ensure that the Bill contributes towards socio-economic transformation of the building industry in South Africa.



# AMENDMENT OF SECTION 15A: DETERMINATION OF SECTORAL NUMERICAL TARGETS

## “Determination of sectoral numerical targets

**15A.** (1) The Minister may, by notice in the *Gazette*, identify national economic sectors for the purposes of this Act, having regard to any relevant code contained in the Standard Industrial Classification of all Economic Activities published by Statistics South Africa. 10

(2) The Minister may, after consulting the relevant sectors and with the advice of the Commission, for the purpose of ensuring the equitable representation of suitably qualified people from designated groups at all occupational levels in the workforce, by notice in the *Gazette* set numerical targets for any national economic sector identified in terms of subsection (1). 15

(3) A notice issued in terms of subsection (2) may set different numerical targets for different occupational levels, sub-sectors or regions within a sector or on the basis of any other relevant factor. 20

(4) A draft of any notice that the Minister proposes to issue in terms of subsection (1) or subsection (2) must be published in the *Gazette*, allowing interested parties at least 30 days to comment thereon.”. 25



# SUBMISSION ON SECTION 15A: DETERMINATION OF SECTORAL NUMERICAL TARGETS

- The Section empowers the Minister of Employment and Labour to set sectoral numerical targets after **consultation** by a notice in the government gazette.
- The Section is silent on the ***criteria*** for identifying and setting sectoral numerical targets.
- The Section is silent on the need for ***consensus*** between the Minister and economic sectors in determination of numerical targets, which demonstrates adequate consultation and is crucial to setting and achievement of any targets set.
- **MBSA is deeply concerned that neither the criteria for setting targets nor the need for consensus have been included in Section 15A.**
- **MBSA proposes that Section 15A(2) should include a requirement for the Minister to determine a criteria for identifying and setting sectoral numerical targets jointly with economic sectors.**





# AMENDMENT OF SECTION 53: STATE CONTRACTS

## Amendment of section 53 of Act 55 of 1998, as amended by section 20 of Act 47 of 2013

12. Section 53 of the principal Act is hereby amended by the addition of the following subsection:

“(6) The Minister may only issue a certificate in terms of subsection (2) if the Minister is satisfied that—

- (a) the employer has complied with a numerical target set in terms of section 15A that applies to that employer;
- (b) in respect of any target with which the employer has not complied, the employer has raised **a reasonable ground** to justify its failure to comply, as contemplated by section 42(4);
- (c) the employer has submitted a report in terms of section 21;
- (d) there has been no finding by the CCMA or a court within the previous 12 months that the employer breached the prohibition on unfair discrimination in Chapter 2; and
- (e) the CCMA has not issued an award against the employer in the previous 12 months for failing to pay the minimum wage in terms of the National Minimum Wage Act, 2018 (Act No. 9 of 2018).”.



# SUBMISSION ON SECTION 53: STATE CONTRACTS

- The section allows for an Employer to raise a reasonable ground to justify its failure to comply.
- The Section is silent on the definition of *acceptable* reasonable grounds to justify a failure to comply- this may be subject to abuse
- MBSA proposes that clear definitions of acceptable reasonable grounds to justify a failure to comply should be included in the Act.
- MBSA proposes that a compliance period of no less than the minimum required for completion of an occupational qualification dominant for each sector, should be included in the definition of acceptable reasonable grounds for failure to qualify.





# CONCLUSION

- Tabling of the Bill before the Select Committee without clearly prescribed criterion for identifying and setting sectoral numerical targets is premature.
- Due consideration should be given to the need for consensus between the Minister and economic sectors in determination of numerical targets.
- Clear definitions of acceptable reasonable grounds to justify a failure to comply should be included in the Act.
- A compliance period of no less than the minimum required for completion of an occupational qualification dominant for each sector, should be included in the definition of acceptable reasonable grounds for failure to qualify.





**MASTER BUILDERS**  
SOUTH AFRICA

**THANK YOU**

- **MASTER BUILDERS SOUTH AFRICA**
- Construction Park, No 1 Second Road, Halfway House, Midrand, 1685
- PO Box 1619 Halfway House 1685
- **Tel:** 011 205 9000 **Fax:** 011 315 1644
- **Website:** [www.masterbuilders.org.za](http://www.masterbuilders.org.za)

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