

A Sunrise-clause for equality



Submission by the Freedom Front Plus to the parliamentary committee on private members' legislative proposals and petitions

Willie Spies, MP

Submission to the Committee on Private Legislative Proposals and Petitions

Employment Equity Amendment Bill
Introduced by WD Spies, MP

During June 2006 the parliamentary portfolio committee on labour conducted public hearings on the issue of youth unemployment.

Members of the Freedom Front Plus Youth and Tuks Afrikaanse Studente made a submission in which they argued that youth unemployment and underemployment is also a phenomenon experienced amongst white youths in general and Afrikaner youth in particular.

In their submission it was pointed out that-

- according to market research conducted by Stellenbosch professor Pierre du Toit, the majority of South Africans¹ favoured the exemption of all young South Africans from the provisions of affirmative action;
- of all groups in our country the youth is the most effected by joblessness;
- The International Labour Organisation of the UN's definition of affirmative action is : "*A coherent packet of measures, of a **temporary** character, aimed specifically at **correcting** the position of members of a target group in one or more aspects of their social life, in order to obtain effective equality*";
- Statistics shows that the number of black students that entered into tertiary institutions grew by more than 100% but that the number of white students decreased by 20%. Two things can be said from this:
- Secondly, the decrease in the number of white youths at tertiary level, is inductive that they are at this level being subjected by Affirmative action, the representivity measures that universities etc must achieve is indicative.
- In South Africa 76% of the jobless are younger than 35. On average it takes three years for a graduate to find a gainful employment.
- Given the fact that great numbers of white school leavers and graduates leave the country to difficulties finding employment, government should consider the fact that huge amounts of capital invested in education is actually wasted as we do not succeed in retaining the graduates that we are producing.
- The suggestion was made to address this by expanding the definition of "designated group" in the Employment Equity Act to also include youths.

At the time one ANC member of the Labour Committee described the suggestion as "a mile-stone proposal".

¹ 50% of black South Africans and 75% of coloured, Indian and white South Africans

In response the Labour committee published its report on 27 February 2007 proposing amongst others that “the Committee should examine the issue of the exclusion of youth as a designated group as reflected in the employment equity”.

Late last year the trade union Solidarity submitted to Parliament a petition proposing a legislative amendment broadening the definition of “designated group” to include so-called free born South Africans.

The FF Plus responded to this petition by submitting the legislative proposal under discussion.

We are of the view that given the temporary nature of affirmative action measures, this proposal creates the opportunity for affirmative action to gradually phase out as South Africa evolves into a non-discriminatory society.

In a sense the proposal is not a “sun-set clause” for affirmative action, but rather a “sun-rise clause for non-racialism in the work place.

REPUBLIC OF SOUTH AFRICA

EMPLOYMENT EQUITY AMENDMENT ACT

*(As introduced as private members' legislative proposal in the National Assembly in
accordance with section 73(2) of the Constitution)*

[MR WD SPIES, MP]

GENERAL EXPLANATORY NOTE:

_____ Words underlined with a solid line indicate insertions in existing enactments

BILL

To amend the Employment Equity Act, Act 55 of 1998, so as to expand the definition of designated groups and include in the definition all so-called free born South Africans. The term free born South Africans will include all South Africans regardless of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture and language who reached their compulsory school-going age on or after 27 April 1994 and who therefore grew up free of the system of apartheid and inequality.

BE IT ENACTED by Parliament of the Republic of South Africa, as follows: -

Amendment Section 1 of Act no. 55 of 1998

1. Section 1 of the principal Act is hereby amended -
 - (a) by the amendment of the definition of “**designated groups**” to read as follows:

“designated groups” means black people, women, people with disabilities and free born South Africans.”

- (b) by the insertion after the definition of “**family responsibility**” of the following definition:

“**free-born South Africans**” means all South Africans regardless of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture and language who reached their compulsory school-going age on or after 27 April 1994

Short title and commencement

2. This Act is called the Employment Equity Amendment Act, 2007 and takes effect on a date fixed by the President by proclamation in the *Gazette*.

**MEMORANDUM ON THE OBJECTS OF THE EMPLOYMENT EQUITY
AMENDMENT BILL, 2007**

MOTIVATION

All South Africans who commenced their school careers in 1994 may be regarded as so-called free born South Africans. This group enjoyed no educational advantages or job reservation meted out by the apartheid government.

It is ideal that as the South African democracy develops, the benefits of affirmative action measures should be made available to an increasing number of South Africans until, some day in future, we reach the stage where all South Africans are truly equal.

The Amendment Act needs to be passed by the Parliament of the Republic of South Africa for the following reasons:

- Young people are necessary for the future of South Africa and its economy;
- South Africa cannot afford to loose so many of its talented, well-educated young people to countries abroad;

FINANCIAL IMPLICATIONS FOR STATE

The Act once enacted will have no financial implications for the state.