

*Schedule 1 of the EE Act (Aug 2014) showing maximum fines and corresponding sections*

<b>Previous Contravention</b>	<b>Contravention of any Provision of Sections 16 (as read with 17), 19, 22, 24,25,26 and 43(2)</b>
No previous contravention	R1,500,000.00
A previous contravention in respect of the same provision	R1,800,000.00
A previous contravention within the previous 12 months or two previous conventions in respect of the same provision within three years	R2,100,000.00
Three previous contraventions in respect of the same provision within three years	R2,400,000.00

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<b>Section</b>	<b>Provision</b>
Section 16 (Consultation with employees) as read with section 17	<p>1) A designated employer must take reasonable steps to consult and attempt to reach agreement on the matters referred to in section 17-</p> <p>a) with a representative trade union representing members at the workplace and its employees or representatives nominated by them; or</p> <p>b) if no representative trade union represents members at the workplace, with its employees or representatives nominated by them.</p> <p>2) The employees or their nominated representatives with whom an employer consults in terms of subsection (1)(a) and (b), taken as a whole, must reflect the interests of-</p> <p>a) employees from across all occupational levels of the employer's workforce;</p> <p>b) employees from designated groups; and</p> <p>c) employees who are not from designated groups.</p> <p>3) This section does not affect the obligation of any designated employer in terms of section 86 of the Labour Relations Act to consult and reach consensus with a workplace forum on any of the matters referred to in section 17 of this Act.</p>
Section 17 (Matters for consultation)	<p>1) A designated employer must consult the parties referred to in section 16 concerning--</p> <p>a) the conduct of the analysis referred to in section 19;</p> <p>b) the preparation and implementation of the employment equity plan referred to in section 20; and</p> <p>c) a report referred to in section 21.</p>

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<p>Section 19 (Analysis)</p>	<ol style="list-style-type: none"> <li>1) A designated employer must collect information and conduct an analysis, as prescribed, of its employment policies, practices, procedures and the working environment, in order to identify employment barriers which adversely affect people from designated groups.</li> <li>2) An analysis conducted in terms of subsection (1) must include a profile, as prescribed, of the designated employer's workforce within each occupational level in order to determine the degree of under representation of people from designated groups in various occupational categories and levels in that employer's workforce.</li> </ol>
<p>Section 25 (Duty to inform)</p>	<ol style="list-style-type: none"> <li>1) An employer must display at the workplace where it can be read by employees a notice in the prescribed form, informing them about the provisions of this Act.</li> <li>2) A designated employer must, in each of its workplaces, place in prominent places that are accessible to all employees-             <ol style="list-style-type: none"> <li>a) the most recent report submitted by that employer to the Director-General;</li> <li>b) any compliance order, arbitration award or order of the Labour Court concerning the provisions of this Act in relation to that employer; and</li> <li>c) any other document concerning this Act as may be prescribed.</li> </ol> </li> <li>3) An employer who has an employment equity plan, must make a copy of the plan available to its employees for copying and consultation.</li> </ol>
<p>Section 22 (Publication of report)</p>	<ol style="list-style-type: none"> <li>1) Every designated employer that is a public company must publish a summary of a report required by section 21 in that employer's annual financial report.</li> </ol>

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	<p>2) When a designated employer within any organ of state has produced a report in terms of section 21, the Minister responsible for that employer must table that report in Parliament.</p>
<p>Section 24 (Designated employer must assign manager)</p>	<p>1) Every designated employer must-</p> <ul style="list-style-type: none"> <li>a) assign one or more senior managers to take responsibility for monitoring and implementing an employment equity plan;</li> <li>b) provide the managers with the authority and means to perform their functions; and</li> <li>c) take reasonable steps to ensure that the managers perform their functions.</li> </ul> <p>2) The assignment of responsibility to a manager in terms of subsection (1) does not relieve the designated employer of any duty imposed by this Act or any other law.</p>
<p>Section 25 (Duty to inform)</p>	<p>2) An employer must display at the workplace where it can be read by employees a notice in the prescribed form, informing them about the provisions of this Act.</p> <p>2) A designated employer must, in each of its workplaces, place in prominent places that are accessible to all employees-</p> <ul style="list-style-type: none"> <li>a) the most recent report submitted by that employer to the Director-General;</li> <li>b) any compliance order, arbitration award or order of the Labour Court concerning the provisions of this Act in relation to that employer; and</li> <li>c) any other document concerning this Act as may be prescribed.</li> </ul> <p>4) An employer who has an employment equity plan, must make a copy of the plan available to its employees for copying and consultation.</p>

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Section 26 (Duty to keep records)	An employer must establish and, for the prescribed period, maintain records in respect of its workforce, its employment equity plan and any other records relevant to its compliance with this Act.
Section 43(2) (Review by Director-General)	2) In order to conduct the review the Director-General may-  a) request an employer to submit to the Director-General a copy of its current analysis or employment equity plan;  b) request an employer to submit to the Director-General any book, record, correspondence, document or information that could reasonably be relevant to the review of the employer's compliance with this Act;  c) request a meeting with an employer to discuss its employment equity plan, the implementation of its plan and any matters related to its compliance with this Act; or  d) request a meeting with any-  i) employee or trade union consulted in terms of section 16;  ii) workplace forum; or  iii) other person who may have information relevant to the review.

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Previous Contravention	Contravention of any Provision of Sections 20,21,23 and 44(b) (Greater of)
No previous contravention	R1,500,000.00 or 2% of turnover
A previous contravention in respect of the same provision	R1,800,000.00 or 4% of turnover
A previous contravention within the previous 12 months or two previous conventions in respect of the same provision within three years	R2,100,000.00 or 6% of turnover
Three previous contraventions in respect of the same provision within three years	R2,400,000.00 or 8% of turnover
Four previous contraventions in respect of the same provision within three years	R2,700,000.00 or 10% of turnover

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<b>Section</b>	<b>Provision</b>
<p>Section 20 (Employment equity plan)</p>	<p>1) A designated employer must prepare and implement an employment equity plan which will achieve reasonable progress towards employment equity in that employer's workforce.</p> <p>2) An employment equity plan prepared in terms of subsection (1) must state-</p> <ul style="list-style-type: none"> <li>a) the objectives to be achieved for each year of the plan;</li> <li>b) the affirmative action measures to be implemented as required by section 15(2);</li> <li>c) where under representation of people from designated groups has been identified by the analysis, the numerical goals" to achieve the equitable representation of suitably qualified people from designated groups within each occupational category in the workforce, the timetable within which this is to be achieved, and the strategies intended to achieve those goals;</li> <li>d) the timetable for each year of the plan for the achievement of goals and objectives other than numerical goals;</li> <li>e) the duration of the plan, which may not be shorter than one year or longer than five years;</li> <li>f) the procedures that will be used to monitor and evaluate the implementation of the plan and whether reasonable progress is being made towards implementing employment equity;</li> <li>g) the internal procedures to resolve any dispute about the interpretation or implementation of the plan;</li> <li>h) the persons in the workforce, including senior managers, responsible for monitoring and implementing the plan; and</li> <li>i) any other prescribed matter.</li> </ul> <p>3) For purposes of this Act, a person may be suitably qualified for a job as a result of any one of, or any combination of that person's-</p> <ul style="list-style-type: none"> <li>a) formal qualifications;</li> </ul>

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	<p>b) prior learning;</p> <p>c) relevant experience; or</p> <p>d) capacity to acquire, within a reasonable time, the ability to do the job.</p> <p>4) When determining whether a person is suitably qualified for a job, an employer must-</p> <p>a) review all the factors listed in subsection (3); and</p> <p>b) determine whether that person has the ability to do the job in terms of any one of, or any combination of those factors.</p> <p>5) In making a determination under subsection (4), an employer may not unfairly discriminate against a person solely on the grounds of that person's lack of relevant experience.</p> <p>6) An employment equity plan may contain any other measures that are consistent with the purposes of this Act.</p> <p>7) The Director General may apply to the Labour Court to impose a fine in accordance with Schedule 1, if a designated employer fails to prepare or implement an employment equity plan in terms of this section</p>
<p>Section 21 (Reports)</p>	<p>1) A designated employer must-</p> <p>a) submit its first report to the Director-General within 12 months after the commencement of this Act or, if later, within 12 months after the date on which that employer became a designated employer; and</p> <p>b) submit a report to the Director-General every year, on the first working day of October or on such a date as may be prescribed.</p> <p>3) Despite subsection (1), an employer that becomes a designated employer on or after the first working day of April but before the first working day of October must only submit its first report in the following year or on such other date contemplated by subsection (1)</p> <p>4) The report referred to in subsection (1) must contain the prescribed information and must be signed by the chief executive officer of the designated employer.</p>



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	<p>(4A) An employer that is not able to submit a report to the Director General but the first working day of October in terms of subsection (1) must notify the Director General in writing before the last working day of August in the same year giving reasons for its inability to do so</p> <p>(4B) The Director General may apply to the Labour Court to impose a fine in accordance with Schedule 1, if an employer -</p> <ul style="list-style-type: none"> <li>a) fails to submit a report in terms of this section</li> <li>b) fails to notify and give reasons to the Director-General in terms of subsection (4A)</li> <li>c) has notified the Director-General in terms of subsection (4A) but the reasons are false or invalid</li> </ul> <p>6) Every report prepared in terms of this section is a public document.</p>
<p>Section 23 (Successive employment equity plans)</p>	<p>Before the end of the term of its current employment equity plan, a designated employer must prepare a subsequent employment equity plan.</p>
<p>Section 44(B) (Outcome of Director-General's review)</p>	<ul style="list-style-type: none"> <li>b) make a recommendation to an employer, in writing, stating-             <ul style="list-style-type: none"> <li>i) steps which the employer must take in connection with its employment equity plan or the implementation of that plan, or in relation to its compliance with any other provision of this Act; and</li> <li>ii) the period within which those steps must be taken; and</li> <li>iii) any other prescribed information</li> </ul> </li> </ul>