

Labour dept gets tough on Employment Equity Compliance

In July this year, 72 JSE-listed companies were identified as the subject of employment equity reviews by the Department of Labour Inspection and Enforcement Services (IES). As a result of this process, the IES has announced that 50 JSE-listed companies, including the JSE, have been found to be non-compliant with the Employment Equity Act (EEA). The IES said 41 employers were given 60 days to comply with their recommendations and that nine would be prosecuted for failing to prepare Employment Equity Plans.



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The IES noted that areas of non-compliance with the EEA included a lack of properly constituted consultative forums; EE plans that were not properly audited and analysed; assigned senior EE managers who did not have the necessary authority or resources to execute their mandate, and prepared employment equity plans that did not comply with legislation.

Lauren Salt, Senior Associate in the Employment & Compensation Practice at Baker McKenzie in Johannesburg says that where the companies are being prosecuted for their non-compliance, this will relate to past non-compliance which cannot be retrospectively rectified. Where this is the case, there is a high likelihood that a fine, pursuant to the non-compliance, will be issued. These fines can be up to 10% of the companies' annual turnover depending on the nature and frequency of the contravention.

“To date, there have not been any hefty fines issued for non-compliance with employment equity obligations and so businesses have been fairly lackadaisical in their approach to compliance with the EEA. Putting in place proper employment equity structures and plans is also no simple task and takes time.”

“Clearly, the Department of Labour is seriously clamping down on enforcement and I think in the near future, will see a number of fines imposed on ‘big ticket’ JSE listed companies to ensure compliance going forward,” she adds.

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