



## GLOBAL BUSINESS SOLUTIONS

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Edition 1/2016

### Difference between procedural and substantial compliance for Employment Equity Act

Many companies have for many years been challenged on procedural compliance for Employment Equity.

This meant they had to establish and consult with an Employment Equity Forum, in order to prepare an employment equity plan and then later submit the EEA2 and EEA4 to the Department of Labour annually. When these boxes are ticked by the company there is often a sense of relief that the company complies with Employment Equity Act.

The implementation is often left to chance. When opportunities become available recruitment is often targeted at finding a person from the designated group as they are often under-represented at top, senior and middle management. More often than not, a suitably qualified person from the designated group doesn't tick all the boxes. Some of the factors being due to lack of relevant experience, qualifications and lack of exposure amongst other reasons given. Often they will be competing with an applicant who meets all the requirements due to previous exposure.

The companies are most likely to appoint the most suitable candidate on inherent requirement of the job (fair discrimination) in terms of section 6 (2b) of the EEA. This cycle continues over and over as there are no measures in place to properly implement and correct the barriers identified. Year on year companies are struggling to meet their numerical goals due to lack of experience, qualifications and perceptions that there are no people from designated groups who would be able to meet the requirements of the job.

Substantial compliance means that the company should not only tick procedural tick boxes. Instead they should put measures in place to **remove barriers identified**. These measures should include **setting numerical goals** that would promote people from designated groups and ensure equitable representation in line with the Economically Active Population demographics. These measures should look at **making reasonable accommodation** where possible to appoint, promote and develop suitably qualified people from designated groups. The company should continuously look at **identifying barriers in policies, procedures and practices** that may prevent people from designated groups from being appointed, promoted and developed. The company should have a **plan** to address under-representation of people from the designated groups. This plan should be communicated to all employees and managers to ensure that it is implemented accordingly. Having an EE Plan does not mean automatic compliance. The company should demonstrate the extent in which they are implementing the EE Plan. The company must **communicate** the opportunities available to its employees resulting from new vacancies, growth, terminations, resignation and or retirements.

- ✓ Is your company confident that it has done all it can to address under-representation of people from the designated groups?
- ✓ Has your company put corrective measures to remove barriers that prevent people from designated groups from entering or advancing in the work place?
- ✓ Perhaps it is time to look at your policies/procedures/ practices that may be a barrier to addressing equal opportunities.
- ✓ Do you have measures in place to include meaningful, numerical goals to reduce under-representation?

Kind Regards

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24 March 2016

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