REPUBLIC OF SOUTH AFRICA

EMPLOYMENT EQUITY AMENDMENT BILL

[FAIR PAY BILL]

(The English text is the official text of the Bill)

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[B 2025]

GENERAL EXPLANATORY NOTE:

] Words in bold type in square brackets indicate omissions from existing enactments.

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

BILL

To amend the Employment Equity Act 55 of 1998 to introduce the prohibition of the use of past remuneration information to determine remuneration in recruitment or appointment practices, to promote remuneration transparency and to provide for matters connected therewith.

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

Amendment of section 1 of Act 55 of 1998

1. Section 1 of the Employment Equity Act is amended –

a. by substituting in the definition of "**employment policy or practice**" -

. subparagraph (b) of the definition for the following subparagraph:

"(a) appointments and the appointment process, including offers of employment;"

ii. subparagraph (c) of the definition for the following subparagraph:

"(c) job classification or grading, including determining the remuneration or remuneration range for a position;"

iii. subparagraph (d) of the definition for the following subparagraph:

"(d) remuneration, employment benefits and terms and conditions of employment, including determining the remuneration offered to an employee;"

b. by the insertion after the definition of "employment policy or practice" the following definition:

"**enquire**" means any attempt to gather information, directly or indirectly, personally or through an agent.

c. by the insertion after the definition of "organ of state" the following definitions:

"**past remuneration**" means the remuneration made or owing to any person in their current or past employment;

"**past remuneration information**" means any information or records relating to or showing a person's past remuneration, including salary records or proof of payment of remuneration, whether in the possession of that person, their current or past employer or a third party;"

Amendment of section 3 of Act 55 of 1998

0. Section 3(d) of the Employment Equity Act is amended by the insertion after the word "Occupation" of the following:

> "and the International Labour Organisation Convention (No. 100) concerning Equal Remuneration."

Insertion of section 6A and 6B in Act 55 of 1998

0. The following section is introduced in the Employment Equity Act, 1998 after section 6:

"Promotion of remuneration transparency"

6A (1) An employer must:

a. if conducting job classification and grading, determine the remuneration or, where necessary, a remuneration range for each position; and

b. when advertising a position, and when recruiting, promoting or transferring an employee, disclose the remuneration or, where necessary, the remuneration range the employer anticipates paying for a position.

(2) Every employee has the right to discuss a job offer or the remuneration or remuneration range for a position with another employee.

"Prohibition of using past remuneration information"

6B (1) It is prohibited to require or enquire into past remuneration information in the process of recruitment, selection or appointment.

(2) The employer may, without enquiring into past remuneration, discuss the employee's remuneration expectations within the remuneration range disclosed in terms of section 6A(1)(b).

(3) It is prohibited to determine an employee's remuneration or terms and conditions of employment with reference to their past remuneration, unless an offer of employment has already been made to the employee and the employee makes a written request that their past remuneration be considered.

Amendment of section 9 of Act 55 of 1998

0. Section 9 of the Employment Equity Act, 1998 is amended by the substitution of the following section:

"For purpose of sections 6, 6A, 6B, 7 and 8, "**employee**" includes an applicant for employment."