

22 July 2025

TO: TO WHOM IT MAY CONCERN

Dear Sir/Madam

**IN RE: UNLAWFUL EMPLOYMENT EQUITY REGULATIONS AND/OR
SECTORAL DETERMINATION**

We refer to the matter mentioned above.

We have been informed that the employers are engaged in finalising and/or implementing their employment equity plans in line with the Employment Equity Regulations and/or Sectoral Determination of 15 April 2025. Please take note that we, and other role-players, have taken legal steps against said regulations and sectoral targets due to the fact that we deem them to be either unconstitutional, unlawful and/or irrational. We will furnish you with the relevant legal documents on request.

It is common cause that any action based on an act that is deemed unconstitutional, unlawful and/or irrational will axiomatically also be deemed unconstitutional, unlawful and/or irrational. Therefore, it follows that any affirmative action plan and labour practice flowing from it (which include, *inter alia*, appointments or promotions) will also be deemed unconstitutional, unlawful and/or irrational in the event the regulations and/or sectoral determination is found to be so. This paves the way for the possibility of a multitude of labour or civil actions against you as employer.

Kindly take note that we accordingly request the following:

1. That your company makes the decision to halt the process to consult on, draft and finalise all employment equity plans in your workplace based on the

intention to comply with the Employment Equity Regulations and/or Sectoral Determination of 15 April 2025, whilst there is still legal uncertainty regarding the legality and/or rationality of the regulations and/or sectoral determination. In the *alternative*, that any employment equity plan and the process to consult on and draft it, be finalised as if the Employment Equity Regulations and/or Sectoral Determination of 15 April 2025 do not find application. We request that you also inform the Department of Employment and Labour of this decision.


2. That your company makes the decision to halt the process to appoint or promote a senior person (as defined and earmarked by the Employment Equity Regulations and/or Sectoral Determination of 15 April 2025) in terms of your employment equity plans, where the Employment Equity Regulations and/or Sectoral Determination of 15 April 2025 find application, whilst there is still legal uncertainty regarding the legality and/or rationality of the regulations and/or sectoral determination. In the *alternative*, that any labour practices which include appointment and/or promotions be made as if the Employment Equity Regulations and/or Sectoral Determination of 15 April 2025 do not find application. We request that you also inform the Department of Employment and Labour of this decision.
3. That your company makes the decision to apply to the Department of Employment and Labour to be exempted from complying with the Employment Equity Regulations and/or Sectoral Determination of 15 April 2025 whilst there is still legal uncertainty regarding the legality and/or rationality thereof. We attach hereto a pro-forma exemption request which you may use for such a purpose.

4. That there be an urgent request from you to the Department of Employment and Labour that your exemption application be dealt with as a matter of urgency before 1 September 2025.

We reiterate that any action based on the employment equity regulations and/or sectoral determination, which is found to be either unconstitutional, unlawful or irrational, will open the proverbial floodgates for either labour or civil action against your company, whilst compliance with the aforementioned requests might prevent same.

Lastly, we request an urgent response to the aforementioned request, as well as the exemption decision by the Department of Employment and Labour. Such a response and decision should be sent to clara@solidariteit.co.za.

Yours faithfully



ANTON VAN DER BIJL
DEPUTY CEO: SOLIDARITY