



South African Institute of Race Relations
The power of ideas

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Dear President Ramaphosa,

We write to you with profound disbelief and concern over your decision to sign the Employment Equity Amendment Bill (EEB) into law. The implementation of the EEB is unconstitutional and will have a major impact on the country. We have written to you on numerous occasions warning against its implementation, and have requested that you send the Bill back to the National Assembly for revision.

On 25 July 2021, Minister of Employment and Labour Thulas Nxesi said, directly before referring to the Bill, that “we now need a more aggressive strategy including a review of legislation”.

Mr President, it is evident that race laws have failed their intended beneficiaries. Race-based policies have, over the last 16 years, entrenched crony-capitalist business practices, and increased the stakes for those with political connections, while the vast majority of South Africans have been trapped within the resulting no-growth framework. The EEB is another anti-poor race law that will only exacerbate these trends and effects. Enforcing more race laws will not solve the poverty and inequality that afflict previously disadvantaged groups. Instead, it will make things worse.

The unemployment numbers across racial lines, presented in Stats SA’s 2022 fourth quarter (Q4) labour force survey, provide perfect proof that race-based policies have not worked. In the fourth quarter, 36.8 percent of Black Africans were unemployed, compared to 21.1 percent of Coloureds, 14.4 percent of Indians/Asians, and 8.2 percent of Whites.

An independent poll commissioned by the Institute of Race Relations (IRR) in 2020 found that less than 20% of either black respondents or white respondents preferred jobs to be appointed

according to the policy laid out in the legislation referred to above. By contrast over 80% of respondents of all race groups preferred jobs to be appointed “on merit”, with or without “special training for the disadvantaged”.

Furthermore, on 1 June 2022 the IRR handed a petition to your office containing more than 23 000 signatures of South Africans who had registered their opposition to the race-based EEB.

Notably, the report of the State Capture Commission said of race-based policies that “evidence shows that the ideals of [black] empowerment were grossly manipulated and abused to advance the interests of a few individuals”.

In a letter dated 1 November 2022, your office informed the IRR that you had noted our objection to the Bill, and that it would be considered before you made your final decision on the legislation.

Mr President, you were obliged by Section 79 (1) of the Constitution to refer the Bill back to Parliament for revision if you had any reservations about its constitutionality. Your signing the EEB into law means that you concluded that the grounds on which we demonstrated the EEB to be unconstitutional were in error.

We request that you provide us with the substance of the considerations that led to your being satisfied that there were no grounds for any reservations as to the constitutionality of the Bill.

As this is a matter of public interest, the contents of this letter and your response to it will be disclosed to our members, and ordinary South Africans, so that they can be informed about the current developments.

Yours sincerely

Gabriel Crouse (Head of Campaigns) and Mlondi Mdluli (Campaign Manager)