



Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 446 Pretoria 19 August 2002 No. 23702



AIDS HELPLINE: 0800-123-22 Prevention is the cure

GOVERNMENT NOTICE

DEPARTMENT OF LABOUR

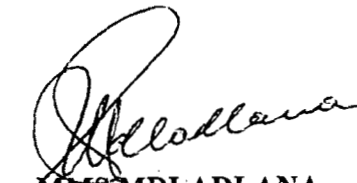
No. 1345

19 August 2002

EMPLOYMENT EQUITY ACT, 1998 (Act No. 55 of 1998)

Code of Good Practice: Key Aspects on the Employment of People with Disabilities

Notice is hereby given that the Code of Good Practice: Key Aspects on the Employment of People with Disabilities set out in the schedule is issued by the Minister of Labour, on the advice of the Commission for Employment Equity, in terms of section 54 (1) (a) of the Employment Equity Act, 1998 (Act No. 55 of 1998).



MMS MDLADLANA
MINISTER OF LABOUR

EMPLOYMENT EQUITY ACT NO 55, OF 1998
CODE OF GOOD PRACTICE
ON THE EMPLOYMENT OF PEOPLE WITH DISABILITIES

CONTENTS	PAGE
1. FOREWORD	2
2. AIMS	3
3. STATUS OF CODE	3
4. LEGAL FRAMEWORK	3
5. DEFINITION OF PEOPLE WITH DISABILITIES	4-5
6. REASONABLE ACCOMMODATION FOR PEOPLE WITH DISABILITIES	6-7
7. RECRUITMENT AND SELECTION	7-10
8. MEDICAL AND PSYCHOLOGICAL TESTING AND OTHER SIMILAR ASSESSMENTS	10-12
9. PLACEMENT	12
10. TRAINING AND CAREER ADVANCEMENT	13
11. RETAINING PEOPLE WITH DISABILITIES	13
12. TERMINATION OF EMPLOYMENT	13-14
13. WORKERS' COMPENSATION	14
14. CONFIDENTIALITY AND DISCLOSURE OF DISABILITY	14-15
15. EMPLOYEE BENEFITS	15
16. EMPLOYMENT EQUITY PLANNING IN RESPECT OF PEOPLE WITH DISABILITIES	16-17
17. EDUCATION AND AWARENESS	17

1. FOREWORD

The **Employment Equity Act, No. 55, 1998** constitutes one of the key legislative and policy interventions within the ethos of South Africa's new constitution to give effect to the provisions relating to removal of policies which result in inequalities in the country. Specific emphasis is placed to ensure equity, the right to equal protection and benefit of the law, *inter alia*, by people with disabilities.

Although many barriers such as widespread ignorance, fear and stereotypes have caused people with disabilities to be unfairly discriminated against in society and in employment, South Africa can take pride in its efforts to formulate policies to protect the rights of people with disabilities.

Unfair discrimination against the disabled is perpetuated in many ways, including the following:

- Unfounded assumptions about the abilities and performance of job applicants and employees with disabilities;
- Advertising and interviewing arrangements which either exclude people with disabilities or limit their opportunities to prove themselves;
- Using selection tests which discriminate unfairly;
- Inaccessible workplaces; and
- Inappropriate training for people with disabilities.

The Disability Code of Good Practice on the employment of people with disabilities is thus part of a broader equality agenda for people with disabilities to have their rights recognised in the labour market where they experience high levels of unemployment and often remaining in low status jobs or earn lower than average remuneration.

This is particularly important since disability is a natural part of the human experience and in no way diminishes the rights of individuals to belong and contribute to the labour market. When opportunities and reasonable accommodation is provided, people with disabilities can contribute valuable skills and abilities to every workplace, and contribute to the economy of our society.

2. AIMS

- 2.1 The **Employment Equity Act, No. 55 of 1998** protects people with disabilities against unfair discrimination in the workplace and directs employers to implement affirmative action measures to redress discrimination.
- 2.2 The Code is a **guide** for employers and employees on promoting equal opportunities and fair treatment for people with disabilities as required by the Employment Equity Act (the Act).
- 2.3 The Code is intended to **help** employers and employees understand their rights and obligations, promote certainty and reduce disputes to ensure that people with disabilities can enjoy and exercise their rights at work.
- 2.4 The Code is intended to help create awareness of the contributions people with disabilities can make and to encourage employers to fully use the skills of such persons.

3. STATUS OF CODE

- 3.1 **The Code is not** an authoritative summary of the law, nor does it create additional rights and obligations. Failure to observe the Code does not, by itself, render a person liable in any proceedings. Nevertheless when the courts and tribunals interpret and apply the Employment Equity Act, they must consider it.
- 3.2 The Code should be **read in conjunction** with other relevant Codes of Good Practice issued by the Minister of Labour.
- 3.3 The Code is intentionally **general** because every person and situation is unique and departures from the guidelines in this code may be justified in appropriate circumstances.
- 3.4 Employers, employees and their organizations should use the Code to develop, implement and refine disability equity policies and programmes to suit the **needs of their own workplaces**.

4. LEGAL FRAMEWORK

The Code is issued in terms of section 54(1)(a) of the **Employment Equity Act, No. 55, 1998** and is based on the **Constitutional principle** that no one may unfairly discriminate against a person on the grounds of disability.