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

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**GOVERNMENT NOTICES**

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**DEPARTMENT OF LABOUR**

No. R. 335

19 April 2001

**EMPLOYMENT EQUITY ACT, 1998 (Act No. 55 of 1998)****Draft Code of Good Practice: Key Aspects of Disability in the Workplace**

1. The Minister of Labour hereby publishes a Draft Code of Good Practice on the Key Aspects of Disability in the Workplace for public comment.
2. This Code is issued by the Minister of Labour in terms of Section 54 of the Employment Equity Act, 1998 on the advice of the Commission for Employment Equity (CEE).
3. Submission of proposals:
  - (a) All interested parties are invited to submit written comments on the draft policy proposals.
  - (b) Such comments should be addressed to Employment Equity Registry, Department of Labour, Private Bag X117, Pretoria, 0001, or faxed to (012) 3094737 or e-mailed to [pertunia.sele@labour.gov.za](mailto:pertunia.sele@labour.gov.za).
  - (c) Comments should reach the Department of Labour not later than 60 days after publication of the draft code.
  - (d) The name, telephone number or fax number and address of a person who may be contacted with regard to the comments should also be stated clearly.
4. The comments will be considered by the Commission for Employment Equity (CEE) in drafting the final code.



**MMS MDLADLANA (MP)**  
**MINISTER OF LABOUR**

## FOREWORD

Widespread ignorance, fear and stereotypes cause people with disabilities to be unfairly discriminated against in society and in employment. As a result, people with disabilities experience high unemployment levels and, in the workplace, often remain in low status jobs and earn lower than average remuneration.

Unfair disability discrimination is perpetuated in many ways. There are many unfounded assumptions about the abilities and performance of job applicants and employees with disabilities. Employers set criteria for selection that exclude disabled people. Workplaces are inaccessible and training is inappropriate for people with disabilities or not available at all.

Employees who become disabled are often dismissed for poor performance or incapacity or they resign unnecessarily. They are often encouraged or forced to apply for disability benefits and they tend to retire earlier than other employees do, although if their needs are reasonably accommodated, they can continue as productive employees.

However people with disabilities can demonstrate their ability and contribute equally alongside fellow workers if enterprises remove unfair discriminatory barriers to their employment and make reasonable accommodation for their needs.

People with disabilities can contribute their skills and abilities to the economy and society. The cost of claims on public social security and occupational benefit schemes can be reduced if employees with disabilities are retained at work.

It is for these reasons that I am pleased to present to you this draft Code of Good Practice. The Commission for Employment Equity which is responsible for advising me on Codes of Good Practice has recommended that this draft Code of Good Practice on Key Aspects of Disability in the Workplace be published for public comment.

The Commission for Employment Equity will consider the comments and then advise me on the contents of a final Code of Good Practice for promulgation.

I take this opportunity to express my hope that the public will take advantage of participating in the important task of extending employment equity to people with disabilities.

**M M S MDLADLANA (MP)**  
**MINISTER OF LABOUR**

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**MMS MDLADLANA (MP)**  
**MINISTER OF LABOUR**

**EMPLOYMENT EQUITY ACT NO 55, OF 1998**  
**CODE OF GOOD PRACTICE ON KEY ASPECTS OF**  
**DISABILITY IN THE WORKPLACE**  
**DRAFT FOR PUBLIC COMMENTS**

**1. AIMS**

- 1.1. The **Employment Equity Act, No. 55 of 1998** protects people with disabilities against unfair discrimination and entitles them to affirmative action measures.
- 1.2. The Code is a **guide** for employers and employees on key aspects of promoting equal opportunities and fair treatment for people with disabilities as required by the Employment Equity Act (the Act).
- 1.3. 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. STRUCTURE**

The Code cover the following aspects:

- (i) The definition of disability;
- (ii) Reasonable accommodation for people with disabilities;
- (iii) Avoiding unfair discrimination and achieving employment equity during the employment cycle (from recruitment to termination);
- (iv) Confidentiality and disclosure;
- (v) Employment benefits; and
- (vi) Employment equity planning.

**3. APPLICATION**

- 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 Codes of Good Practice that may be issued by the Minister of Labour.
- 3.3. The Code is intentionally **general** because every person and situation is unique and departures from the standards in this code may be justified in appropriate circumstances.