

Summary of the Employment Equity Act

Summaries of legislation are ordinarily prescribed summaries of a particular Act. These summaries have to be displayed at prominent places in the workplace in order to allow employees to take notice of and understand the legislation.

The purpose of the Employment Equity Act is to promote equal opportunities and fair treatment in employment through the elimination of unfair discrimination and to implement affirmative action measures aimed at redressing the disadvantages in employment experienced by designated groups to ensure their equitable representation in all occupational categories and on all levels in the workforce.

The following summary complies with the requirements and the following pages can be displayed at a prominent place on the school premises.

See the following link for a short introduction:

<https://drive.google.com/file/d/1QeO1LTefX8oMw-OTnmjboxVIPtZFCfO/view?usp=sharing>



THE EMPLOYMENT EQUITY ACT (EEA) 55 OF 1998

South Africa is one of the most culturally, racially and economically diverse countries in the world. The Employment Equity Act 55 of 1998 (EEA) was promulgated to ensure that everyone enjoys equal opportunities and fair treatment in the workplace. The act protects you from any form of discrimination by an employer and affords you certain rights.

What is the Employment Equity Act?

The EEA promotes equity in the workplace. It ensures that all employees receive equal opportunities and are treated fairly by their employers.

The law protects you from unfair treatment and any form of discrimination. It states that your employer may not discriminate against you through employment policy or practice, whether directly or indirectly, on the following grounds:

Race or colour	Gender	Pregnancy	Birth
Marital status	Family responsibility	Ethnic or social origin	Age
Sexual orientation	Language	Political opinion	Conscience
Disability	Religion or belief	HIV status	Culture

The act aims to redress the injustices of the past by implementing affirmative action measures. Therefore, it is not considered unfair discrimination to promote affirmative action consistent with the act. It is also not unfair discrimination to prefer or exclude anyone on the basis of an inherent job requirement.

The purpose of the Employment Equity Act

The act seeks to achieve equity in the workplace by:

- promoting equal opportunities and fair treatment in employment through the elimination of unfair discrimination; and
- implementing affirmative action measures to redress the disadvantages in employment experienced by designated groups* to ensure their equitable representation in all occupational categories and on all levels in the workforce.

Medical testing

- Medical testing of an employee is permissible only when legislation requires testing, or if it is justifiable for various reasons.
- HIV testing is prohibited, unless determined to be justifiable by the Labour Court.
- Psychological testing and similar assessments are prohibited, unless the test is scientifically valid and reliable, can be applied fairly to all employees, and is not biased against any employee or group.

Application of the act

Chapter II (sections 5–11) applies to all employers and employees.

Chapter III (sections 12–27) applies to designated employers.**

* Designated groups are black people, women, or people with disabilities.

** A designated employer means an employer who employs 50 or more employees or has a total annual turnover as reflected in schedule 4 of the Act, as well as municipalities and organs of state. Employers can also volunteer to become designated employers.



Excluded from the act

The South African National Defence Force, the National Intelligence Agency and the South African Secret Service are excluded from the act.

The employer's responsibility to ensure that the EEA is implemented

A designated employer must prepare and implement a plan to achieve employment equity, which must:

- have objectives for each year of the plan;
- include affirmative action measures;
- have numerical goals for achieving equitable representation;
- have a timetable for each year;
- have internal monitoring and evaluation procedures, including internal dispute resolution mechanisms; and
- identify persons, including senior managers, to monitor and implement the plan.

What can you do if you were unfairly dismissed or discriminated against?

- An employee or job applicant may refer a dispute concerning alleged unfair discrimination (or medical or psychological testing) to the CCMA for conciliation. This must be done within six months of the alleged discrimination (or testing).
- If a dispute is not resolved at conciliation, a party may refer it to the Labour Court for adjudication.
- The parties to a dispute may also agree to refer the dispute for arbitration.
- Unfair dismissal disputes in which unfair discrimination is alleged must be dealt with in terms of the Labour Relations Act. The dismissal must be referred to the CCMA within 30 days.

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