



labour

Department:  
Labour  
REPUBLIC OF SOUTH AFRICA



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## Basic Guide to Unfair Discrimination

Employers must remove unfair discrimination from their policies and practices. It is not unfair to discriminate when you apply affirmative action.

### Application

The Employment Equity Act applies to all employers, workers and job applicants, but not members of the –

- National Defence Force;
- National Intelligence Agency; and
- South African Secret Service.

The provisions for affirmative action apply to –

- employers with 50 or more workers, or whose annual income is more than the amount specified in Schedule 4 of the Act;
- municipalities;
- organs of State;
- employers ordered to comply by a bargaining council agreement;
- any employers who volunteer to comply.

### See

- Employment Equity Act  
Applies to all employers and workers and protects workers and job seekers from unfair discrimination, and also provides a framework for implementing affirmative action

### Policies and Practices

Employers must remove unfair discrimination from all their policies and practices.

*Based on Legislation in Section 5, of the Employment Equity Act*

### Definitions

Nobody may discriminate against workers because of their –

- race;
- gender;
- sex;
- pregnancy;
- marital status;
- family responsibility;
- ethnic or social origin;
- colour;
- sexual orientation;
- age
- disability;
- religion;
- HIV status;
- conscience;
- belief;
- political opinion;
- culture;
- language; or
- birth.

*Based on Legislation in Section 6, of the Employment Equity Act*

### When is Discrimination Not Unfair?

It is not unfair discrimination to –

- apply affirmative action; or
- exclude or prefer people because of certain requirements of a job (e.g. to exclude blind workers from driving a bus).

*Based on Legislation in Section 6, of the Employment Equity Act*

### Disputes

Workers must refer disputes about unfair discrimination to the CCMA in writing within 6 months.

*Based on Legislation in Section 10, of the Employment Equity Act*

### Related Links

- The Commission for Conciliation, Mediation and Arbitration (CCMA)  
Visit the website of the Commission for Conciliation, Mediation and Arbitration (CCMA)