



MEDICLINIC 



DISABILITY IN THE WORKPLACE



EMPLOYMENT EQUITY (EE) ACT



The **objective** of the **EE Act** is to promote equity in the workplace by:

- Eliminating unfair discrimination
- Implementing affirmative action for designated groups to achieve equitable representation in all occupational categories and levels

The **EE Act** prohibits **unfair discrimination**.

- No direct or indirect discrimination
- An employer cannot discriminate against employees or job applicants
- Employment policies or practices cannot be discriminatory

On **grounds** including race, gender, sexual orientation, pregnancy, marital status, family responsibility, ethnic or social origin, colour, age, disability, religious belief, political opinion, language or HIV status

DISABILITY DEFINITION



The EE Act defines people with disabilities as:

‘People who have a long-term or recurring physical or mental impairment which substantially limits their prospects of entry into, or advancement in, employment.’



DISABILITY DEFINITION



Impairment:

An impairment can be **physical** (e.g. partial or total loss of bodily function or part of the body), or **mental** (e.g. a clinically recognised condition or illness that affects a person's thought processes, judgment or emotions).

Long-term/recurring:

Long-term means that the impairment has lasted or is likely to persist for **at least 12 months**.

- Recurring impairment is likely to happen again and be substantially limiting.
- Progressive or recurring conditions which have no overt symptoms or which do not substantially limit a person would not be covered under the EEA until the symptoms are substantially limiting the person's ability to do their job.

Substantially limiting:

If in its nature, duration or effect, it substantially limits the person's **ability to perform the essential functions** of the job for which they are being considered

DISABILITY DEFINITION



Adapted from SA Human Rights Commission

VISION IMPAIRMENT

Vision impairment refers to people who are blind or who have partial sight.

DEAF OR HEARING IMPAIRED

Hearing impairments can range from mild to profound. People who are hard of hearing may use a range of strategies and equipment, including speech, lip-reading, writing notes, hearing aids or sign language interpreters.

MENTAL HEALTH CONDITIONS

Mental illness is a general term for a group of illnesses that affect the mind or brain. These illnesses, which include bipolar disorder, depression, schizo-phrenia, anxiety and personality disorders, affect the way a person thinks, feels and acts.

INTELLECTUAL DISABILITIES

A person with an intellectual disability may have significant limitations in the skills needed to live and work in the community, including difficulties with communication, self-care, social skills, safety and self-direction.

ACQUIRED BRAIN INJURIES

Acquired brain injury refers to any type of brain damage that occurs after birth. The injury may occur because of infection, disease, lack of oxygen or trauma to the head.

AUTISM SPECTRUM DISORDERS

Autism is an umbrella description which includes autistic disorders, Asperger's syndrome and atypical autism. Autism affects the way information is taken in and stored in the brain. People with autism typically have difficulties in verbal and non-verbal communication, social interactions and other activities.

PHYSICAL DISABILITIES

The common characteristic in physical disability is that some aspect of a person's physical functioning, usually either their mobility, dexterity, or stamina is affected. People with physical disabilities are usually experts regarding their own needs, and will understand the impact of their disability.

PROGRESSIVE CHRONIC CONDITIONS

A progressive disorder is a disease or health condition that gets worse over time, resulting in a general decline in health or function. The term progressive disorder is often used to distinguish a condition from a relapsing and recurring disorder. In a **relapsing and recurring disorder** there are often periods of relief, when the disease is stable for a while or is in remission. In contrast, a progressive disorder does not have these breaks. Depending on the diagnosis, a progressive disorder may move quickly or very slowly.

NON-EXHAUSTIVE LIST OF DISABILITIES



**Adapted from Fasset's employer disability toolkit
and the Department of Labour**

The examples provide an indication of the wide range of disabilities and should be tested against the definition of disability.

VISION LOSS AND BLINDNESS

Blind: refers to a total loss of vision

Visual impairment: indicates partial sight

Blurred or fuzzy vision

HEARING LOSS AND DEAFNESS

Deaf: refers to a total loss of hearing

Hard of hearing: refers to partial hearing loss ranging from slight to severe

Use of hearing aids: Does the person make use of a hearing aid?

NON-EXHAUSTIVE LIST OF DISABILITIES



CHRONIC ILLNESS

- Cerebral palsy, asthma, multiple sclerosis (MS), epilepsy, cancer, diabetes, heart disease, chronic fatigue syndrome, muscular dystrophy, Lou Gerhig's disease (amyotrophic lateral sclerosis or ALS)
- Epilepsy: a term for various disorders marked by electrical disturbances of the central nervous system and typically manifested by seizures or involuntary muscular contractions
- Motor disability: this includes MS, muscular dystrophy, ALS and cerebral palsy. This is a group of conditions resulting from damage to the central nervous system.

Adapted from Fasset's employer disability toolkit and the Department of Labour

NON-EXHAUSTIVE LIST OF DISABILITIES



MENTAL ILLNESS/MENTAL DISABILITY

- Mental illness/mental disability: a psychiatric disability caused by a biological, physiological or psychological disorder, or a chemical disorder of the brain
- Mental retardation/cognitive disability: a condition causing significantly below average intellectual functioning

CONGENITAL DISABILITY

- A physical impairment existing since birth, such as being born with one limb

PHYSICAL DISABILITY

- The inability to use legs, arms, or the body trunk effectively because of paralysis, stiffness, pain, or other impairments

Adapted from Fasset's employer disability toolkit and the Department of Labour

NON-EXHAUSTIVE LIST OF DISABILITIES



SPEECH AND LANGUAGE DISORDERS

- Speech impairment: limited or difficult to understand speech patterns. A speech disorder affects one's ability to speak words so that they are understandable.

PARALYSIS/SPINAL CORD INJURY

- Hemiplegia is the full or partial paralysis of one side of the body caused by brain damage as a result of a disease, trauma or stroke.
- Paraplegia is paralysis of the lower half of the body and involves the partial or total loss of function of both legs.
- Quadriplegia is paralysis of the body involving the partial or total loss of function in a person's arms and legs.

Adapted from Fasset's employer disability toolkit and the Department of Labour

NON-EXHAUSTIVE LIST OF DISABILITIES



- Alzheimer's disease: a progressive, incurable condition that destroys brain cells
- ALS, more commonly known as Lou Gehrig's disease, it is a progressive neuromuscular disease that causes degeneration of the motor neurons, nerve cells that control the movement of voluntary muscles
- Anxiety disorder
- Asperger's disorder: a pervasive developmental disorder commonly referred to as a form of 'high-functioning' autism
- Attention-deficit hyperactivity disorder (ADHD): a common developmental and behavioural disorder characterised by poor concentration, distractibility, hyperactivity, and impulsiveness
- Autism spectrum disorders
- Bipolar disorder
- Blindness
- Cerebral palsy
- Deafness
- Depression
- Developmental disability

Adapted from Fasset's employer disability toolkit and the Department of Labour

NON-EXHAUSTIVE LIST OF DISABILITIES



- Down's syndrome
- Epilepsy
- Fetal alcohol spectrum disorder (FASD)
- Hard of hearing
- Human immunodeficiency virus (HIV/Aids)
- Learning disability
- Lupus, or systemic lupus erythematosus
- Mental illness
- Multiple sclerosis (MS)
- Muscular dystrophy (MD)
- Rheumatoid arthritis
- Spina bifida
- Spinal cord injury (SCI)
- Traumatic brain injury (TBI)



Adapted from Fasset's employer disability toolkit and the Department of Labour

REFERRING TO PEOPLE WITH DISABILITIES



Adapted from Quadpara Association of SA and SA Human Rights Commission

Refer to a person's disability only when it is necessary and appropriate.

Refer to the individual first, then to their disability. For example: 'person with a disability', rather than 'disabled person'.

Avoid:

- Invalid
- Able-bodied
- Wheelchair bound
- Victim
- Defect
- Crippled
- Suffers from ...
- Handicap



When communicating with people with disabilities, one should speak in the same way as one would speak to someone without a disability – using respectful language.

If you are unsure of the appropriate word usage, it is acceptable and advisable to ask.

REFERRING TO PEOPLE WITH DISABILITIES



DO NOT USE	X	RATHER USE
The disabled, the handicapped Handicapped, crippled, physically challenged, differently abled, an invalid, 'the disabled'		People with disabilities, the disability community Persons with disabilities, disability or impairment
A paraplegic, a quadriplegic, an albino, a mongol		Person with paraplegia, quadriplegia, albinism, Down's syndrome
Jack suffers from cerebral palsy. Jack is afflicted with cerebral palsy. Jack is a victim of cerebral palsy. Jack is stricken with cerebral palsy.		Jack is a child with cerebral palsy. Jack has cerebral palsy.
Wheelchair bound, confined or restricted to a wheelchair		Person who uses a wheelchair, a wheelchair user

Adapted from Quadpara Association of SA and SA Human Rights Commission

REFERRING TO PEOPLE WITH DISABILITIES



DO NOT USE	X	RATHER USE
Handicap parking		Accessible parking, parking for people with disabilities
Senile, demented, epileptic		Person with Alzheimer's disease Person who has dementia Person with epilepsy, person with seizure disorder
Stutterer, tongue-tied		Person with a speech impairment, who has a speech disability, speech disorder, or communication disability
Crazy, maniac, lunatic, insane, nuts, deranged, psycho		People with emotional disorders, mental illness, mental health disability, psychiatric disability
Dwarf, midget		Short stature, little person
Retard, mentally defective, moron, idiot, slow, imbecile, feeble-minded, Down's person, mongoloid		Person with a developmental disability, person with mental retardation, person with a developmental delay, person with Down's syndrome or person who is brain injured or has a traumatic brain injury

Adapted from Quadpara Association of SA and SA Human Rights Commission

REFERRING TO PEOPLE WITH DISABILITIES



DO NOT USE	X	RATHER USE
Deformed, deformity, birth defect		Person born without arms or with a congenital disability or birth anomaly.
Deaf and dumb, 'the deaf'		Person who is deaf or has a hearing impairment, deaf sign language user, deaf people, people with hearing impairments
Special bathroom or paraplegic bathroom		Accessible bathroom
Normal person, healthy		People without disabilities, able-bodied, person who is able to walk, person who can see

Adapted from Quadpara Association of SA and SA Human Rights Commission

REFERRING TO PEOPLE WITH DISABILITIES



DO NOT USE	X	RATHER USE
Fit, attack		Seizure, epileptic episode or event
Dumb, mute		Person who cannot speak, has difficulty speaking, uses synthetic speech, is non-vocal, non-verbal
Crippled, lame, deformed		Person with a disability, walks with a cane, uses leg braces
A post-polio, suffered from polio		Has had polio, experienced polio
Homebound		Stay-at-home, hard for the person to get out

Adapted from Quadpara Association of SA and SA Human Rights Commission

ADDICTION



- There is a medical difference between misuse and addiction.
- Substance abuse is not grounds for accommodation.
- Substance addiction, proven by medical evidence, and where the person is on a recognised treatment programme, can and must be accommodated in the workplace.



REASONABLE ACCOMMODATION



‘Reasonable accommodation’ means:

Any modification or adjustment to a job or to the working environment that will enable a person with a disability to have reasonable access to participate or advance in employment

Aim:

To reduce the impact of the impairment on the person’s capacity to fulfil the essential functions of the job

Examples:

- Adapting existing facilities or equipment to make it more accessible
- Acquiring new equipment
- Including computer hardware and software
- Restructuring jobs so that non-essential functions are reassigned
- Adjusting working time and leave, e.g. allow time off for therapy



REASONABLE ACCOMMODATION



How to ask for reasonable accommodation:

- If you are a person with a disability under the Employment Equity Act, inform your manager or HR of your reasonable accommodation need.
- Technical experts may be required to establish and implement appropriate measures to accommodate employees in the workplace.
- You may be requested to undergo a functional evaluation to determine the best reasonable accommodation for you.



REASONABLE ACCOMMODATION



When is an employer not obliged to provide reasonable accommodations?

An employer need not accommodate a qualified applicant or an employee with a disability if this would impose unjustifiable hardship on the business of the employer.

Confidentiality:

Consult with the employee and obtain their consent.

Thereafter:

Reasonable accommodation needs of an employee with a disability may be disclosed to HR and other employees.



DISCLAIMER



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