

Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (Equality Act)

Topic: Equality and Rights

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Introduction

The Bill of Rights housed under the Constitution of the Republic of South Africa, 1996 states that no one may be unfairly discriminated against based on their race, gender, disability, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, religion, conscience, belief, culture, language or birth. Hate speech is also prohibited on the above grounds.

Objectives of the Act

The Equality Act gives effect to the Constitution in that it prohibits all forms of unfair discrimination.

Application of the Act and its implication to Tourism

The Equality Act applies to and binds both the State (i.e. Government) and all other persons or entities residing or operating in South Africa. All persons, including non-governmental organisations, community-based organisations and traditional institutions must promote equality in their relationships with other bodies and in their public activities.

The State has a duty and responsibility to promote and achieve equality, as do all persons. All persons, non-governmental organisations, community-based organisations and traditional institutions must promote equality in their relationships with other bodies and in their private and public activities.

Summary of the provisions of the Act

Types of discrimination

Generally, neither the State nor any person may unfairly discriminate against any person. There are a number of different types of discrimination including the rights not to be discriminated against on the basis of–

- race and colour;
- sexual orientation: being gay, lesbian or heterosexual;
- marital status: being single, married or divorced;
- gender: social and cultural male or female roles (for example, where a woman cannot get a certain job just because she is a woman);
- sex: physical differences between men and women (for example, a woman is discriminated against because she is pregnant);
- pregnancy;
- age;
- disability;
- ethnic origin: being from a particular background, such as a clan or language group;
- culture: having a shared culture and traditional practices;
- language;
- religion, conscience and belief; or
- birth.

Prohibition of hate speech

No person may publish, propagate, advocate or communicate words based on one or more of the prohibited grounds, against any person, that could reasonably be construed to demonstrate a clear intention to be hurtful, to be harmful, to incite harm or to promote or propagate hatred.



WHAT HAPPENS IF YOU DO NOT COMPLY?

In the case of discrimination which is contrary to the provisions of the Equality Act, any offended person may make application to the Equality Court for a determination and order.

An equality court may make an order, which may include an interim order, a declaratory order, an order for the payment of any damages, an order restraining unfair discriminatory practices or an order directing that specific steps be taken to stop the unfair discrimination, hate speech or harassment.



RECOMMENDED ACTIONS OR CONTROLS WHICH SHOULD BE IMPLEMENTED BY THE TARGET AUDIENCE TO ENSURE COMPLIANCE WITH THE ACT

- All entities must ensure that they treat all people in a fair and non-discriminatory manner, especially where such discrimination is based on race, colour, creed or sexual preference.
- Entities must ensure that the principles set out under the Equality Act are enshrined in its policies and procedures and that any prohibited discriminatory practice is acted on according to the entity's disciplinary procedures.

FURTHER INFORMATION

Regulator

Department of Justice and Constitutional Development

Website

www.justice.gov.za