



**KWAZULU-NATAL
PROVINCIAL TRESUARY**

**POLICY ON DISABILITY IN THE
WORKPLACE**

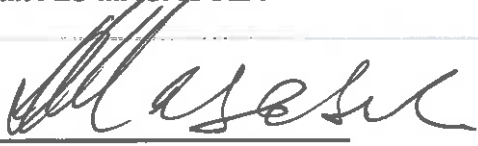
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Designation:	 HEAD OF DEPARTMENT
Date:	<i>22/02/2017</i>

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1. INTRODUCTION

People with disabilities face several barriers in their everyday life and are thereby unable to participate fully in the labour market and society in order to reach their full potential. They are one of the most disadvantaged groups, with less likelihood to obtain educational qualifications or to be employed. They face communication and transport barriers, and are likely to have lower or no income and fewer financial resources. All too often, persons with disabilities find themselves the poorest of poor, living in abject poverty and in unfriendly, unsafe and unhealthy environments. In addition to these challenges faced on daily basis, public attitudes to disability often take the form of ignorance, stereotyping and prejudice, which have a negative impact on the lives of people with disabilities.

The department seeks to ensure that there are measures put in place to ensure that people with disabilities are recruited, retained and are reasonably accommodated, hence the development of this policy. The department strives to achieve national targets as set by DPSA for people with disabilities in employment. It is also the aim of the department to ensure that people with disabilities;

- feel free to disclose their disability status,
- are not discriminated against, and
- are reasonably accommodated.

2. OBJECTIVES OF THE POLICY

The policy objectives are:

- 2.1 To create a disability sensitive culture within the department.
- 2.2 To ensure that people with disabilities have access to employment within the department.
- 2.3 To promote recruitment and retention of people with disabilities.
- 2.4 To promote awareness, understanding and acceptance of the needs of people with disabilities amongst employees of the department.
- 2.5 To promote a safe and healthy working environment for all departmental and prospective employees with disabilities.
- 2.6 To ensure that people with disabilities, who are currently employed in the department, are able to develop and progress and are afforded the same privileges as their non-disabled colleagues.

- 2.7 To ensure that appropriate measures are in place to prevent and eradicate discriminatory practices and employment barriers for people with disabilities.
- 2.8 To provide information in a disability sensitive manner where necessary.
- 2.9 To provide emotional and psychological support for employees with disabilities.
- 2.10 To reasonably accommodate the needs of people with disabilities so that they can perform their duties effectively.

3. LEGISLATIVE MANDATES

The Constitution of South Africa.

Employment Equity Act, 1998.

Public Service Act, 1994, as amended.

Labour Relations Act, 1998.

Basic Conditions of Employment Act, 1997, as amended.

Public Service Regulations, 2016.

Occupational Health and Safety Act 85 of 1993.

Skills Development Act 97 of 1998.

The Code of Good practice: Key Aspects on the Employment of People with Disabilities (Employment Equity Act no. 55 of 1998)..

The Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000.

The Public Service JobACCESS Strategic Framework and Implementation Guidelines and Plan.

4. SCOPE OF APPLICABILITY

This policy is applicable to all KwaZulu Natal Provincial Treasury prospective employees and employees who are employed in terms of Public Service Act, 1994, as amended.

5. GLOSSARY OF TERMS

Justifiable hardship

-an action that requires significant or considerable difficulty or expense. This involves considering amongst other things, the effectiveness of the accommodation and the extent to which it would seriously disrupt the operation of the business.

Department

-for the purpose of this policy refers to KZN Provincial Treasury.

6. DEFINING PEOPLE WITH DISABILITIES UNDER THE EMPLOYMENT EQUITY ACT, 1998.

Defining people with disabilities under the Act (Extract from the Act)

The scope of protection for people with disabilities in employment focuses on the effect of a disability on the person in relation to the working environment, and not on the diagnosis of the impairment.

Only people who satisfy all the criteria in the definition:

- (i) long-term or recurring;
- (ii) having a physical or mental impairment;
- (iii) which substantially limits,

are considered as persons with disabilities.

6.1 Long-term or recurring

- (i) Long-term means the impairment has lasted or is likely to persist for at least twelve months. A short-term or temporary illness or injury is not an impairment which gives rise to a disability.
- (ii) A recurring impairment is one that is likely to happen again and to be substantially limiting (see below). It includes a constant underlying condition, even if its effects on a person fluctuate.
- (iii) Progressive conditions are those that are likely to develop or change or recur. People living with progressive conditions or illnesses are considered as people with disabilities once the impairment starts to be substantially limiting. Progressive or recurring conditions which have no overt symptoms or which do not substantially limit a person are not disabilities.

6.2 Impairment

- (i) An impairment may be physical or mental.
- (ii) 'Physical' impairment means a partial or total loss of a bodily function or part of the body. It includes sensory impairments such as being deaf, hearing impaired, or visually impaired and any combination of physical or mental impairments.
- (iii) 'Mental' impairment means a clinically recognised condition or illness that affects a person's thought processes, judgment or emotions.

6.3 Substantially limiting

- (i) An impairment is substantially limiting if, in the absence of reasonable accommodation by the employer, a person would be either totally unable to do a job or would be significantly limited in doing the job.
- (ii) Some impairments are so easily controlled, corrected or lessened, that they have no limiting effects. For example, a person who wears spectacles or contact lenses does not have a disability unless even with spectacles or contact lenses the person's vision is substantially impaired.
- (iii) An assessment whether the effects of impairment are substantially limiting must consider if medical treatment or other devices would control or correct the impairment so that its adverse effects are prevented or removed.
- (iv) For reasons of public policy certain conditions or impairments may not be considered disabilities. These include but are not limited to:
 - sexual behavior disorders that are against public policy;
 - self-imposed body adornments such as tattoos and body piercing;
 - compulsive gambling, tendency to steal or light fires;
 - disorders that affect a person's mental or physical state if they are caused by current use of illegal drugs or alcohol,
 - unless the affected person is participating in a recognised programme of treatment;
 - normal deviations in height, weight and strength; and
 - conventional physical and mental characteristics and common personality traits.

7. DISCLOSURE AND CONFIDENTIALITY

7.1 Disclosure of disability

- People with disabilities are entitled to keep their disability status confidential. But if the department is not aware of the disability or the need to be accommodated, the department is not obliged to provide accommodation.
- An employee who decides to disclose his/her disability status may use an employment equity form attached here as "Annexure A".
- If the disability is not self evident an employee may be required to disclose sufficient information to confirm the disability or the accommodation needs.
- If on reasonable grounds there is doubt about an employee's disability, or that the employee requires accommodation, the department is entitled to request

the employee to be screened by an appropriate professional to determine the employee's ability or disability, at its expense.

- An employee who wishes to disclose his/her disability status may follow the Departmental Disclosure of Disability Guidelines attached as "Annexure B".

7.2 Confidentiality

- The department may not disclose any information relating to a person's disability without the written consent of the employee concerned unless legally required.
- The department must protect the confidentiality of the information that has been disclosed and must take care to keep records of private information relating to the disability of applicants and employees confidential; and must be kept separate from general personnel records.

8. REASONABLE ACCOMMODATION

8.1 The department has an obligation based on availability of funding to reasonably accommodate the needs of people with disabilities to remove barriers, if:

- An applicant or employee voluntarily discloses a disability related accommodation need.
- Such a need is reasonably self evident.

8.2 Reasonable accommodation may be temporary or permanent, depending on the nature and extent of the disability.

8.3 Reasonable accommodation include, but not limited to;

- Adapting existing facilities to make them accessible;
- Adapting existing equipment or acquiring new equipment including computer hardware and software;
- Re-organizing workstations;
- Changing training and assessment materials and systems;
- Restructuring jobs;
- Adjusting work time (flexible working hours) and leave;
- Providing specialized supervision, training and support in the workplace.

It must be noted that reasonable accommodation does not imply compromising on the output of a job.

8.4 In line with the Employment Equity Act (1998) and the Code of Good Practice on the Employment of People with Disabilities, the department need not

accommodate a suitable applicant or an employee with a disability if this would impose an *unjustifiable hardship* to the department.

9. RECRUITMENT AND SELECTION

9.1 Recruitment

- (i) The department should clearly state on all advertised posts that people with disabilities are encouraged to apply.
- (ii) The inherent requirements of the vacant post must be in terms of the job profiling process.
- (iii) Advertisements should include sufficient detail about the inherent requirements of the job so that potential applicants with disabilities can make an informed decision.
- (v) The department will attempt if reasonable in the circumstances, notices and advertisements should be provided in a format appropriate to persons with disabilities, such as large print, Braille or audiotape.
- (vi) In addition to the media, all job adverts would also be placed on career websites.
- (vii) There shall be no job reservation for people with disabilities. All vacancies will be opened to people with disabilities.

9.2 Selection

- (i) Subject to reasonable accommodation, the department should apply the same criteria to test the ability of people with disabilities as are applied to other applicants.
- (ii) The purpose of the selection process is to assess whether or not an applicant is suitably qualified in terms of the core criteria of the post.
- (iii) If the criteria tend to exclude people with disabilities, it should be reviewed to ensure that it does not unfairly discriminate against people with disabilities.
- (viii) Under no circumstances will the disability of the applicant negatively influence the selection process.

9.3 Assessments

It must be ensured that the selected assessment does not disadvantage applicants with disabilities, even as in interpretation of assessment data.

9.4 Interview

- (i) Selection interviews should be objective and unbiased. Interviewers should avoid assumptions about people with disabilities.
- (ii) If an applicant has disclosed a disability or has a self evident disability the interviewer must focus on the applicant's competencies and ability to do the job not the disability.
- (iii) If the department knows in advance (before the interview) that an applicant has a disability, or if the applicant has a self evident disability, the department should if necessary, make reasonable accommodation during the interview, e.g. making available an interpreter.
- (iv) Once appointment has resumed, the department will engage with the employee with disability to ascertain accommodation needs.

10. TRAINING AND DEVELOPMENT

The department will make the provision to give opportunity of training and development to people with disability. People with disabilities should be consulted in order to ensure input specific to their career advancement, a Personal Development Plan should be in place and implemented.

Training and development programmes which include: Trainee Ranks Programme, Bursaries, Learnerships, Internships and In-service training should also be offered to people with disabilities in order to ensure their development and also to assist them access employment.

11. EMPLOYMENT EQUITY PLANNING

The department must have an Employment Equity Plan in place to ensure that people with disabilities are catered for and to keep up to date statistics about people with disabilities within the department. Strategies and measures on how to recruit and retain people with disabilities should be clearly set out in the department's EE Plan. This will assist in the achievement of the required target of people with disabilities.

12. DISABILITY COMMITTEE

The department shall establish a Disability Committee where individual disability issues can be discussed. The committee should include the following:

- Human Resources Manager
- Employee Wellness Practitioner
- Employment Equity Practitioner
- Person to represent People with Disabilities (internal/external within the Public Service).
- Corporate Service Representative
- Labour Employee Relations Representative

13. ROLES AND RESPONSIBILITIES

13.1 Human Resources should:

- Form partnerships with relevant disability bodies.
- Provide reasonable accommodation for people with disabilities
- Match the needs of the person with the needs of the department in an appropriate and disability sensitive manner.
- Provide an orientation and induction programme for all employees including employees with disabilities.
- Provide job structure which is disability sensitive.
- Provide shadowing opportunities, mentoring and coaching for all employees, including employees with disabilities,
- Identify training needs and career progression for all employees, including employees with disabilities,
- Ensure that all information should be supplied in a manner and format that is accessible to employees with disability, (i.e. payslips in large font for visually impaired individuals).
- Contribute to mainstreaming disability into relevant programmes and operational plans.
- Familiarize themselves with the disability legislation and disability strategy/policy of the department and other relevant documents related to disability.
- Provide attitudinal and awareness workshops on disability issues to all staff.
- Determine and implement strategies to advance mainstream employment for people with disabilities.

13.2 Employees should:

- Disclose their disability status when reasonable accommodation is required either to their supervisors or any member of the Disability Committee.
- **Make a request for work related reasonable accommodation need to Human Resources.**
- Be aware of their rights at any stage of employment within the department.
- Express an interest in further development, related to their current line function, and should guide the line manager as to how they would like to progress.
- Familiarize themselves with the disability legislation and disability strategy/policy of the department and other relevant documents related to disability.

13.3 Disability Committee should:

- Conduct disability audit.
- Deal with the screening disability declaration applications.
- Treat all employee disability issues with confidentiality.
- Ensure that people with disabilities are reasonably accommodated.

14. DISPUTE AND GRIEVANCE

Any person who has a grievance or dispute, concerning unfair discrimination on the grounds of disability, against another within the department, as defined in the policy statement, shall have normal recourse to the prescribed Grievance Rules and Collective Agreements, as well as any other right they have by law. For KZN Provincial Treasury employees, all internal mechanisms must be exhausted before utilizing external mechanisms.

15. BUDGET ALLOCATION

The department should allocate a budget to address issues of disability. All the plans must ensure that provision is made for internal and external capacity building initiatives focusing on people with disabilities.

16. COMMUNICATION

The Directorate: **Human Resources** is responsible for communicating this policy to all employees within the department.

17. MONITORING AND EVALUATION

The Directorate: **Human Resources** is responsible for the development of this Policy and ongoing monitoring thereof.

The following tools will be used on quarterly basis to monitor and evaluate the department's initiatives and effectiveness in accommodating people with disabilities;

- Employment Equity Plan
- Human Resource Plan
- Workplace Skills Plan
- Consultative Forum

Any inputs or amendments to this Policy can be directed to the Director: **Human Resources**.



DEPARTMENT OF LABOUR

DECLARATION BY EMPLOYEE
(Confidential)

PLEASE READ THIS FIRST

Purpose of this form

This form is used to obtain information from employees for the purpose of assisting employers with conducting an analysis on the workforce profile. Employers should use this form to ascertain which employees are from designated groups in terms of the Employment Equity Act, 55 of 1998.

Who fills in this form

Employees should fill in this form.

Instructions

Employers must ensure that the contents of this form remain confidential, and that it is only used to comply with the Employment Equity Act, 55 of 1998.

'People with disabilities' are defined in the Act as people who have long-term or recurring physical or mental impairments, which substantially limits their prospects of entering into, or advancement in employment.

Please note that people have the right to disclose or not to disclose their disability.

1. Name of employee: _____

2. Employee workplace No: _____
(This is the number that an employer/company/organization uses to identify an employee in the workplace)

3. Please indicate to which categories you belong with an 'X' below:

Male	Female

African	Coloured	Indian	White

Foreign National	
------------------	--

If you are not a citizen by birth, please indicate the date you acquired your citizenship:

Person with a disability	
--------------------------	--

If yes, specify nature of disability:

4. I verify that the above information is true and correct.

Signed: _____

Employee

Date: _____

DISCLOSURE OF DISABILITY GUIDELINES

1. INTRODUCTION

In the absence of a clear guideline document that maps the direction to be followed in identifying the disability status of employee, it has become a challenge in establishing the correct disability status of the Department. It has therefore become imperative that such a document be introduced so as to assist both the Department and its employees.

2. LEGISLATIVE MANDATES AND FRAMEWORKS

The Constitution of South Africa, 1996.

Employment Equity Act No. 55 of 1998.

Technical Assistance Guidelines on the Employment of People with Disabilities.

3. Definition

Code of Good Practice on Key Aspects on the Employment of People with Disabilities (Employment Equity Act No 55 of 1998) – defines:-

-having physical or mental impairment; which is long-term or recurring and which substantially limits their prospects of entry into, or advancement in employment.

Employees are considered as persons with disabilities who satisfy all the criteria in the definition:

3.1 There must be impairment.

3.2 The impairment must be long-term or recurring.

3.3 The impairment must be substantially limiting.

4. PROCESS TO BE FOLLOWED IN DETERMINING DISABILITY STATUS

4.1 The employee is to ascertain if the above definition (all of the three criteria) is applicable to his or her condition.

4.2 The employee is to provide a medical report to the HR Manager from a qualified expert confirming (provide details in line with the mentioned criteria) the above where the disability is not clearly evident.

4.3 Each disability status application would be screened by the Departmental Disability Committee which would comprise of:

- 4.1.1 Human Resources Manager
- 4.1.2 Person to represent People With Disability
- 4.1.3 Employee Wellness Practitioner
- 4.1.4 Employment Equity Practitioners

4.4 The employee would then be required to complete a Declaration by Employee Form (based on the recommendation of the Disability Committee) and disability status would be accordingly updated on Persal.

