

REPUBLIC OF SOUTH AFRICA

WOMEN EMPOWERMENT AND GENDER EQUALITY BILL

*(As amended by the Select Committee on Women, Children and People with Disabilities
(National Council of Provinces)
(The English text is the official text of the Bill)*

(MINISTER OF WOMEN, CHILDREN AND PEOPLE WITH DISABILITIES)

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BILL

To give effect to section 9 of the Constitution of the Republic of South Africa, 1996, insofar as the empowerment of women and gender equality is concerned; to establish a legislative framework for the empowerment of women; to align all aspects of laws and implementation of laws relating to women empowerment, and the appointment and representation of women in decision-making positions and structures; and to provide for matters connected therewith.

PREAMBLE

AS the Republic's constitutional and international commitments in the field of human rights include the promotion of gender equality and the prohibition of unfair discrimination against women and the elimination of gender-based violence;

AND AS measures to address discrimination against women are essential to the transformation of gender relations in the Republic,

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

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CHAPTER 1

GENERAL PROVISIONS 25

Definitions

1. In this Act, unless the context otherwise indicates—
 - “**applicable legislation**” means the laws specified in Schedule 2;
 - “**Constitution**” means the Constitution of the Republic of South Africa, 1996;
 - “**Department**” means the Department of Women, Children and People with Disabilities;
 - “**discrimination**” means discrimination as defined in the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000);
 - “**gender**” means the roles, duties and responsibilities which are culturally or socially ascribed to women, men, girls and boys; 35
 - “**gender-based violence**” means all acts perpetrated against women, girls, men and boys on the basis of their gender, sex or sexual orientation which cause or could cause them physical, sexual, psychological, emotional or economic harm, and includes any threat to cause such harm;
 - “**gender discrimination**” means any distinction, exclusion or restriction made on the basis of gender, sex or sexual orientation which has the effect or purpose of impairing or nullifying the equal recognition, enjoyment or exercise by a person of her or his human rights and fundamental freedoms in any spheres of life; 40
 - “**gender equality**” means the full and equal enjoyment of rights and freedoms and equal access to resources, opportunities and outcomes, by women, men, girls and boys; 45

- “**gender mainstreaming**” means the process of identifying gender gaps and making women’s, men’s, girls’ and boys’ concerns and experiences integral to the design, implementation, monitoring and evaluation of policies, legislation and programmes in all sectors of life to ensure that they benefit equally;
- “**Minister**” means the Minister for Women, Children and People with Disabilities; 5
- “**prescribed**” means prescribed by regulation in terms of this Act;
- “**private body**” means—
- (a) a natural person who carries on any trade, business or profession, but only in such capacity;
 - (b) a partnership which carries on any trade, business or profession; or 10
 - (c) any juristic person, but excludes a public body and a public benefit organization as defined in section 30 of the Income Tax Act, 1962 (Act No. 58 of 1962);
- “**public body**” means—
- (a) any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or 15
 - (b) any other functionary or institution when—
 - (i) exercising a power or performing a duty in terms of the Constitution or a provincial constitution; or
 - (ii) exercising a public power or performing a public function in terms of any 20 legislation;
- “**substantive gender equality**” means gender equality in fact and in law, and involves achieving equitable outcomes and equal opportunities;
- “**this Act**” includes any regulation made under this Act; and
- “**women empowerment**” means the advancement of women in social, political 25 and economic spheres to promote the realisation of gender equality.

Application of Act

2. (1) Unless otherwise indicated in this Act, this Act applies to all public bodies and private bodies designated under subsection (2).
- (2) The Minister may, subject to subsection (4) and in order to achieve the progressive 30 realisation of this Act, by notice in the *Gazette*, designate public bodies and private bodies which must comply with one or more provisions of this Act specified in the notice.
- (3) The Minister may from time to time, for the purposes of subsection (2), designate different public bodies and private bodies which must comply with the relevant 35 provisions.
- (4) The public and private bodies designated under subsection (2) shall be the ones that—
- (a) employ 150 or more employees; or
 - (b) employ fewer than 150 employees but have a total turnover that is equal to or 40 above the applicable annual turnover of a small business as outlined in schedule 1 of this Act.

Objectives of Act

3. The objectives of this Act are to—
- (a) give effect to the letter and spirit of the Constitution, in particular— 45
 - (i) the equal enjoyment of all rights and freedoms by every person;
 - (ii) the promotion of equality, specifically gender equality; and
 - (iii) the values of non-racialism and non-sexism contained in section 1 of the Constitution;
 - (b) facilitate compliance with the country’s commitments to international 50 agreements, including—
 - (i) the Convention on the Elimination of All Forms of Discrimination Against Women (December 1979);
 - (ii) the Beijing Declaration and Platform for Action (September 1995);
 - (iii) the Millennium Declaration and Development Goals (September 2000); 55
 - (iv) the Protocol to the African Charter on Human and Peoples’ Rights and the Rights of Women in Africa (2003);
 - (v) the Solemn Declaration on Gender Equality in Africa (July 2004); and
 - (vi) the SADC Protocol on Gender and Development (August 2008);

- (vii) The United Nations Convention on the Rights of Persons with Disabilities, 2008.
- (c) align all aspects of the laws and the implementation of the laws relating to women empowerment and the appointment and representation of women in decision-making positions and structures; 5
- (d) facilitate the development and implementation of plans and measures by designated public bodies and designated private bodies for the promotion of women empowerment and gender equality, and the submission of those plans and measures to the Minister for consideration, review and guidance;
- (e) provide for the implementation of measures to achieve the progressive realisation of a minimum of 50 percent representation and meaningful participation of women in decision-making positions and structures including Boards by designated public bodies and designated private bodies, as contemplated in section 7; 10
- (f) provide for the implementation of gender mainstreaming by designated public bodies and designated private bodies as contemplated in section 8; and 15
- (g) provide for the development and implementation of public education programmes by designated public bodies and designated private bodies on practices that unfairly discriminate on grounds of gender as contemplated in the applicable legislation and in international agreements in order to promote gender equality and social cohesion; 20
- (h) address the pervasive discriminatory patriarchal attitudes and the lingering effects of apartheid faced by women in the education system, and to ensure that women's responsibilities are not the cause for drop out or exclusion.

CHAPTER 2 25

SOCIAL DEVELOPMENT

Education and training

4. (1) Designated public bodies and designated private bodies must within their ambit of responsibilities, develop and implement plans and measures as prescribed, in order to achieve the objectives of this Act and to— 30
- (a) achieve the progressive realisation of access to education for all;
 - (b) educate and train women in order to achieve the progressive realisation of equitable and sustainable development for women and gender equality;
 - (c) capacitate and enable women to assimilate and develop knowledge, requisite skills and values, in order to achieve the progressive realisation of equal representation and meaningful participation of women in all decision-making positions and structures, contemplated in section 7(1) and their economic empowerment contemplated in section 10(1); 35
 - (d) improve access to education on reproductive rights for women, particularly young women; and 40
 - (e) eliminate prejudices and current practices that hinder the achievement and enjoyment of gender equality and social cohesion.
- (2) Designated public bodies and designated private bodies must submit to the Minister their plans and measures in compliance with subsection (1) within one year of being designated, for consideration, review and guidance. 45
- (3) The Minister may, at any time after the submission of the plans and measures contemplated in subsection (2), require a designated public body and a designated private body to submit to the Minister a report on its implementation of subsection (1), for consideration, review and guidance.

Access to health care, including reproductive health 50

5. (1) Designated public bodies and designated private bodies within the health sector must, within their ambit of responsibilities and available resources, develop and implement a model as prescribed for delivering women's health, including reproductive health, in order to achieve the progressive realisation of access to health and reproductive rights for women, and to achieve the objectives of this Act. 55