

**SECONDARY LEGISLATION IN RESPECT OF THE PROMOTION OF
EQUALITY AND PREVENTION OF UNFAIR DISCRIMINATION ACT, 2000**
(ACT 4 OF 2000)

REGULATIONS MADE IN TERMS OF SECTION 30 OF THE PROMOTION OF EQUALITY AND PREVENTION OF UNFAIR DISCRIMINATION ACT, 2000 (ACT NO. 4 OF 2000) PUBLISHED IN GOVERNMENT NOTICE NO. R. 764 OF 13 JUNE 2003 (GOVERNMENT GAZETTE NO. 25065)

The Minister for Justice and Constitutional Development has in consultation with the Minister of Finance, under section 30 of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000), made the regulations in the Schedule.

SCHEDULE

**REGULATIONS RELATING TO THE PROMOTION OF EQUALITY AND
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CHAPTER I

GENERAL PROVISIONS

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act has the meaning so assigned to it and, unless the context otherwise indicates -

"clerk" means a clerk of an equality court;

"Committee" means the Equality Review Committee established in terms of section 32 of the Act;

"court" means an equality court;

"day" means any day of the week other than a Saturday, Sunday or public holiday;

"directions hearing" means a directions hearing contemplated in regulation 10(5);

"Director-General" means the Director-General of the Department of Justice and Constitutional Development;

"inquiry" means an inquiry contemplated in section 21(1) of the Act;

"registrar" means a registrar of a High Court appointed under section 34 of the Supreme Court Act, 1959 (Act No. 59 of 1959), or a registrar appointed under any law not yet repealed by a competent authority and which, immediately before the commencement of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), was in force in any area which forms part of the national territory; and

"the Act" means the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000).

CHAPTER II CLERKS OF EQUALITY COURTS

Application for appointment as clerk

2.(1) An application for appointment as a clerk, contemplated in section 17 of the Act, must be in writing on a form which corresponds substantially with Form 1 of the Annexure and must be submitted to the Director-General.

(2) The application referred to in subregulation (1) must be accompanied by-

- (a) a certified copy of the identity document of the applicant;
- (b) certified copies of all educational qualifications of the applicant;
- (c) certificates of service or, if not available, an affidavit by the applicant in respect of previous periods of service rendered by him or her;
- (d) testimonials, if available, from previous employers of the applicant; and
- (e) the names, addresses and telephone numbers of two references.

Appointment requirements of clerk

3.(1) A person may be appointed as a clerk by the Director-General if he or she complies with the appointment requirements as stipulated in the Public Service Act, 1994 (Proclamation No. 103 of 1994), and the appointment policies for a post of administrative clerk in the Department.

(2) The appointment of a clerk is subject to the completion of a course approved by the Director-General.

Conditions of appointment of clerk

4.(1) The Director-General may appoint a person as a clerk for the period agreed to between the Director-General and the applicant, who is entitled to an all inclusive remuneration equal to the total remuneration package of an administrative clerk in the Department.

(2) The conditions of service of a person appointed as a clerk in terms of subregulation (1) are the same as the conditions of service applicable in respect of a person appointed as clerk of the court in terms of the Public Service Act, 1994 (Proclamation No. 103 of 1994).

Additional functions of clerk

5. In addition to the functions prescribed by the Act, a clerk must-

- (a) upon receipt of the notification contemplated in regulation 6(1), open a file and number the matter with a consecutive number of the year;
- (b) keep a register in which he or she records -
 - (i) the particulars of the parties involved in each matter;
 - (ii) the number of the matter referred to in paragraph (a);
 - (iii) the relief requested;
 - (iv) the date and the outcome of the inquiry;
 - (v) the outcome of an appeal or review, if applicable; and
 - (vi) the particulars of the alternative forum to which the matter was referred, the date of referral and the outcome of the matter if applicable;
- (c) mark every document received afterwards with such number as assigned to the specific matter;
- (d) file any documentation received on the appropriate file;
- (e) assist to the best of his or her ability a person who is illiterate or disabled with the completion of any document relating to the proceedings in the court;
- (f) if a person instituting proceedings is not represented or assisted -
 - (i) inform the person of his or her right to representation;

- (ii) inform the person of the assistance available to him or her by constitutional institutions or other non-governmental organisations;
- (iii) inform and explain to that person his or her rights and remedies in terms of the Act to the best of his or her ability;
- (iv) assist a person further by reading or explaining any documentation to him or her; and
- (v) explain the process and procedures relating to the attendance of witnesses;
- (g) perform the duties assigned to him or her in terms of these regulations;
- (h) subpoena a witness to attend the inquiry at the request of a party or by direction of the court;
- (i) inform a witness that he or she is entitled to witness fees and ensure that a witness is assisted in this regard where necessary; and
- (j) perform the duties of the clerk of a civil court insofar as it is necessary to give effect to the provisions of the Act.

CHAPTER III

EQUALITY COURT PROCEEDINGS

Institution of proceedings

6.(1) A person, an association or a commission contemplated in section 20 of the Act, wishing to institute proceedings in terms of the Act, must notify the clerk of his or her intention to do so on a form which corresponds substantially with Form 2 of the Annexure.

(2) The clerk must within seven days after receipt of the notice referred to in subregulation

(1) -

- (a) notify the respondent on a form which corresponds substantially with Form 3 of the Annexure that proceedings have been instituted against him or her; and

- (b) invite the respondent, if he or she so wishes, to submit the information contemplated in paragraph C of Form 3 of the Annexure in writing within 10 days of the receipt of such notice.
- (3) The clerk must, within seven days after receipt of the response of the respondent contemplated in subregulation (2)(b), submit a copy thereof to the complainant.
- (4) The clerk must, within three days after the expiry of the period contemplated in subregulation (2)(b), refer the matter to a presiding officer, who must, within seven days after receiving the documentation relating to the matter, decide whether the matter is to be heard in the court or whether it should be referred to an alternative forum.
- (5) If the presiding officer decides that the matter is to be heard in the court, the presiding officer must refer the matter to the clerk who must, within three days after such referral, assign a date for the directions hearing.
- (6) The clerk must, after a date of the directions hearing has been assigned, notify the complainant and the respondent on a form which corresponds substantially with Form 4 of the Annexure, of the date of the directions hearing.
- (7) If the presiding officer decides that the matter must be referred to an alternative forum he or she -
- (a) must make an order in a form which corresponds substantially with paragraph 1 of Part A of Form 5 of the Annexure; and
 - (b) may make remarks or comments he or she deems necessary for the attention of the alternative forum in writing on a form which corresponds substantially with paragraph 2 of Part A of Form 5 of the Annexure.
- (8) On receipt of an order contemplated in subregulation (7), the clerk must, in the manner determined by the presiding officer -

- (a) submit all relevant original documents relating to the matter, including the order, to the alternative forum mentioned in the order;
- (b) retain certified copies of all the documentation relating to the matter;
- (c) forward a copy of the order to the parties; and
- (d) notify the parties of the documents submitted to the alternative forum referred to in paragraph (a).

(9) On receipt by the alternative forum of the documents referred to in subregulation (8)(a), the alternative forum must notify the parties and the clerk in writing of the receipt of the matter.

(10) The alternative forum to which the matter is referred, must within 60 days after receipt of the documents referred to in subregulation (8), submit a report on the progress made in respect of the matter to the clerk.

(11) When the matter is resolved by the alternative forum, the forum must immediately inform the clerk of the outcome of the matter.

(12) If the alternative forum refers the matter back to the court, such referral must be in writing on a form which corresponds substantially with Part B of Form 5 of the Annexure, stating the reasons why the matter was referred back.

(13) The court must, within seven days from the date on which the matter was returned to the court, give instructions in respect of the adjudication of the matter.

(14) The clerk must immediately inform the parties of the date of the directions hearing in the manner contemplated in subregulation (6).

(15) Upon written application to the presiding officer, and in the case of an urgent matter, the presiding officer may direct a deviation from the periods of time specified in the regulations.

Service and submission of documents

7.(1) The notice referred to in regulation 6(2)(a) must be -

- (a) served personally on the respondent by a sheriff or a clerk; or
- (b) submitted to the respondent by -
 - (i) registered post;
 - (ii) facsimile; or
 - (iii) e-mail, if proof of receipt thereof can be given by the person who sent the e-mail; or
- (c) served or submitted in any other manner as directed by a presiding officer.

(2) If the notice is submitted to the respondent by -

- (a) registered post, proof thereof must be kept; and
- (b) facsimile or e-mail, proof thereof must be kept and the original form must be sent without delay to the respondent by registered post.

(3) The notice referred to in regulation 6(6) must be served personally on the parties by a sheriff or a clerk.

Attendance of proceedings

8.(1)(a) A party wishing to have a witness subpoenaed must, within 14 days before the date of the inquiry, request the clerk to issue a subpoena, and the clerk must forthwith issue the subpoena.

(b) The subpoena issued must correspond substantially with Form 6 of the Annexure.

(c) After a subpoena contemplated in paragraph (a) has been issued, the subpoena must be handed to the person who requested the subpoena who must serve the subpoena on the witness or cause the subpoena to be served on the witness -

- (i) by a sheriff at own cost; or

- (ii) by any person designated by the clerk on the recommendation of the presiding officer.

- (d) The person who serves the subpoena must complete Part B of Form 6 of the Annexure.

- (2)(a) The attendance of proceedings by a witness by direction of the court is secured by means of a subpoena, issued by a clerk, which corresponds substantially with Form 6 of the Annexure.

- (b) The subpoena referred to paragraph (a) must be served on the witness at State expense by a sheriff.

- (3) A person subpoenaed to attend the proceedings as a witness, may be required to produce any book, document or statement or object relating to the matter.

- (4)(a) Any witness, excluding a person who is in the full-time employ of the State, attending the proceedings is, subject to paragraph (b), entitled to the allowance set out in paragraph (c).

- (b) The presiding officer may order that no allowance or only part thereof be paid.

- (c) The allowance payable to a witness is as follows:
 - (i) R100 for each day or part of a day during which the witness is required to be present at the proceedings; and
 - (ii) reasonable substantiated travel and subsistence expenses incurred by the witness in order to attend the proceedings.

- (d) The expenses relating to the allowances referred to in paragraph (c) must be paid by -
 - (i) the State if the witness attends the proceedings by direction of the court; or
 - (ii) the party who requested the attendance of the witness, unless the presiding officer directs otherwise.

(5) The provisions of section 51 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), apply with the necessary changes in respect of any witness subpoenaed to attend proceedings under these regulations.

Confirmation of court order

9.(1) If a magistrate's court, sitting as a court, makes an order which exceeds the monetary jurisdiction of the said court, the clerk must within seven days after the order becomes available-

- (a) inform the respondent that -
 - (i) the order is to be submitted to the High Court, for confirmation; and
 - (ii) he or she has the right to submit to the clerk any statement or argument within three days after receipt of the notification; and
- (b) forward to the registrar of the High Court, the record of the proceedings or a copy thereof certified by the clerk, together with any statement or argument submitted by the respondent in terms of paragraph (a)(ii).

(2) The registrar must lay the record of the proceedings referred to in subregulation (1) before a judge of the High Court for confirmation.

Powers and functions of court

10.(1) The inquiry must be conducted in an expeditious and informal manner which facilitates and promotes participation by the parties.

(2) The regulations regulating the proceedings of the inquiry must, as far as possible, be interpreted in a manner that gives effect to the guiding principles contemplated in section 4 of the Act.

(3) The proceedings should, where possible and appropriate, be conducted in an environment conducive to participation by the parties.

(4) The court is a court of record and-

- (a) the proceedings at an inquiry must be recorded by the presiding officer or by a person appointed or designated thereto by the presiding officer;
- (b) the proceedings at an inquiry must be taken down in shorthand or recorded by mechanical means and may be transcribed only if the presiding officer so directs or where required by the Act;
- (c) the shorthand notes or any transcription thereof or any mechanical recording of the proceedings or transcription thereof must be certified as true notes, a true transcription, or a true record taken, as the case may be, whereafter they become part of the record of the proceedings and for purposes of disposal are regarded as records of the civil court.

(5)(a) On the date assigned by the clerk contemplated in regulation 6(5), a directions hearing must be held by the presiding officer to resolve matters of an administrative or procedural nature in respect of the inquiry.

(b) At a directions hearing the presiding officer must give such directions in respect of the conduct of the proceedings as he or she deems fit.

(c) Without detracting from the generality of paragraph (b), the presiding officer may, after hearing the views of the parties to the proceedings, make an order in respect of -

- (i) discovery, inspection and exchange of documents;
- (ii) interrogatories;
- (iii) admission of facts or of documents;
- (iv) the limiting of disputes;
- (v) the joinder of parties;
- (vi) amicus curiae interventions;
- (vii) the manner of service of documents not provided for in the regulations;
- (viii) amendments;
- (ix) the filing of affidavits;
- (x) the giving of further particulars;
- (xi) the place and time of future hearings;

- (xii) procedures to be followed in respect of urgent matters; and
- (xiii) the giving of evidence at the hearing, including whether evidence of witnesses in chief is to be given orally or by affidavit, or both.

(d) In order to give effect to -

- (i) the guiding principles contemplated in section 4 of the Act; and
- (ii) sections 21(1) and 30(1)(a) of the Act and in exercising his or her discretion in terms of subparagraphs (b) and (c),

the presiding officer must, as far as possible, follow the legislation governing the procedures in the court in which the proceedings were instituted, with appropriate changes for the purpose of supplementing this regulation where necessary, but may, in the interests of justice and if no one is prejudiced, deviate from these procedures after hearing the views of the parties to the proceedings.

(e) At a directions hearing, the presiding officer must, if a party is unrepresented -

- (i) inform him or her of his or her right to be represented at his or her own expense by a legal representative of his or her own choice and if he or she cannot afford legal representation, that he or she may apply for legal aid and of the institutions which he or she may approach for legal assistance; and
- (ii) explain the contents and implications of any direction or order made in terms of subparagraphs (b) and (c).

(6)(a) An affidavit made by a witness to the proceedings, may be allowed as evidence to the same extent as oral evidence unless a party objects thereto and if such statement -

- (i) (aa) is in writing;
- (bb) is signed by the person who made it;
- (cc) contains a declaration by such person that it is true to the best of his or her knowledge and belief; and
- (dd) contains a declaration that he or she made the statement knowing that he or she may be guilty of an offence if he or she wilfully stated anything therein which he or she knew to be false; and

(ii) has come to the knowledge of the other party at least seven days before the inquiry.

(b) When an affidavit by a witness has been allowed as evidence in terms of paragraph (a) and if a party subsequently so requests, or the presiding officer is of the opinion that it is desirable, such witness must be subpoenaed to appear in court and such witness may be cross-examined.

(7) Save as is otherwise provided for in these regulations, the law of evidence, including the law relating to competency and compellability, as applicable in civil proceedings, applies in respect of an inquiry: Provided that in the application of the law of evidence, fairness, the right to equality and the interests of justice should, as far as possible, prevail over mere technicalities.

(8) The court must, before oral evidence is adduced, administer an oath to, or accept an affirmation from, any witness or party appearing before the court, as if the witness or party were a witness in a criminal case.

(9)(a) Any party to the proceedings may, during the proceedings in court, be represented by an attorney or advocate or any person of his or her choice.

(b) The presiding officer must, if a party is represented by a person other than an attorney or advocate and if the presiding officer is of the opinion that such person is not a suitable person to represent the party, inform the party accordingly.

(10)(a) A party may cross-examine any other party who elects to give evidence or who is called by the other party.

(b) The presiding officer must, where necessary and appropriate, ascertain the relevant facts about the complaint and to that end he or she may question any party who elects to give evidence or who is called as a witness at any stage of the proceedings.

(c) The presiding officer may on his or her own initiative call a person to appear before him or her as a witness in the proceedings.

(11) If a party, during the course of the proceedings, wishes the presiding officer to make an order contemplated in subregulation (5)(c), a motion application is brought to this effect, after notification to the parties and the court.

(12) The presiding officer may in compelling circumstances postpone an inquiry.

Withdrawal of complaints

11.(1) The complainant may, if he or she so wishes, withdraw the complaint upon written notice to the respondent and the clerk.

(2) Upon the receipt of the notice by the court, the complaint is deemed to have been withdrawn if the presiding officer is, in the case of a complainant not being represented by an attorney or advocate, satisfied that the withdrawal is made freely and voluntarily.

Fees and costs

12.(1) No court fees are payable in respect of the institution of proceedings in the court.

(2) Each party bears his or her own costs unless the presiding officer directs otherwise.

(3)(a) If a complainant, without reasonable excuse, does not attend a directions hearing or the inquiry and the presiding officer is satisfied that proper notice of the directions hearing or the inquiry has been given to the complainant, the presiding officer may -

- (i) dismiss the complaint; and
- (ii) order the complainant to pay the costs of the respondent.

(b) The clerk must in the event of a dismissal of the complaint or a cost order contemplated in paragraph (a) inform the complainant in writing accordingly.

(4)(a) If a respondent, without reasonable excuse, does not attend a directions hearing or the inquiry and the presiding officer is satisfied that proper notice of the directions hearing or the inquiry has been given to the respondent, the presiding officer may -

- (i) order that the proceedings continue in the absence of the respondent; and
- (ii) order the respondent to pay the costs of the complainant.

(b) The clerk must in the event of an order contemplated in paragraph (a)(i) or (ii) inform the respondent in writing accordingly.

CHAPTER IV ASSESSORS

Criteria in respect of assessors

13. A person will be suitable to serve as an assessor in the court if he or she -

- (a) is at least 21 years of age, of sound mind and body and resident in the area in which he or she will serve as assessor;
- (b) is respected in the community and is preferably involved in community activities;
- (c) has knowledge of the cultural and social environment of a particular group of the community;
- (d) has not been convicted of an offence of which violence, dishonesty, extortion or intimidation is an element or of corruption, perjury, or obstructing the course of justice, arson or an offence under law relating to organised crime or the dealing in dependence-producing substances, unless amnesty has been granted to such a person in terms of national legislation, or such person has received a presidential pardon;
- (e) is not a political office bearer; and
- (f) does not hold a permanent post in the Public Service.

Factors relating to the summons of assessors

14. In considering whether summoning an assessor would be in the interests of the administration of justice, the presiding officer must take into account -

- (a) the cultural and social environment of one or both of the parties;
- (b) the educational background of one or both of the parties;
- (c) the nature and seriousness of the complaint;
- (d) the nature of the relief sought by the complainant;
- (e) any particular interest which the community in general, or any specific community, may have in the adjudication of the matter concerned; or
- (f) any other matter or circumstances which he or she may deem to be indicative of the desirability of summoning an assessor or assessors.

Taking of oath

15. Every assessor must in writing take an oath or make an affirmation subscribed by him or her before a presiding officer of an equality court, in the following form:

"I,,(full name) do hereby swear/solemnly affirm that whenever I may be called upon to perform the functions of an assessor in terms of section 22 of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000), I shall to the best of my ability make a considered finding or decision, or give a considered opinion, as the case may be, according to the evidence tendered in the matter."

Role of presiding officer

16.(1) An assessor must, when considering an appropriate order contemplated in section 21(2) of the Act, assist the presiding officer in an advisory capacity only.

(2) The presiding officer must adjourn the proceedings regarding any matter or question contemplated in section 22(3) of the Act and must sit alone for the hearing of such proceedings and the decision of such matter or question.

(3) Whenever the presiding officer makes a decision in terms of section 22(3) of the Act, he or she must give reasons for the decision.

(4) The presiding officer must, before a determination of whether unfair discrimination, hate speech or harassment, as the case may be, has taken place is made, explain to an assessor any specific rule of evidence or any other matter that is relevant in respect of the evidence tendered to the court.

(5) The clerk must for the purposes of section 22 (6)(b) of the Act, in any manner he or she deems fit, forward the reasons of the presiding officer and the record of the proceedings to the appeal court concerned.

Recusal of assessor

17.(1) A presiding officer who is assisted by an assessor may, on application by a party, order the recusal of an assessor from the proceedings if the presiding officer is satisfied that -

- (a) the assessor has a personal interest in the proceedings concerned;
- (b) there are reasonable grounds for believing that there is likely to be a conflict of interests as a result of the assessor's participation in the proceedings concerned; or
- (c) there are reasonable grounds for believing that there is a likelihood of bias or prejudice on the part of the assessor.

(2) An assessor may recuse himself or herself from the proceedings for the reasons contemplated in subregulation (1).

(3)(a) The other party must, before the recusal of an assessor is ordered in terms of subregulation (1), be given an opportunity to address arguments to the presiding officer.

(b) The parties must, in so far as it is practicable, before the recusal of an assessor in terms of subregulation (2), be given an opportunity to address arguments to the presiding officer on the desirability of such recusal.

(4) The assessor concerned must be given an opportunity to respond to any argument referred to in subregulation (3), and the presiding officer may put such questions regarding the matter to the assessor as he or she may deem fit.

(5) The presiding officer must give reasons for an order referred to in subregulation (1).

Honoraria

18.(1) An assessor who is not employed by the State may, for purposes of his or her attendance as assessor at equality proceedings, be paid an honorarium of twenty rand per hour or every part of an hour in excess of fifteen minutes.

(2) The period for which an assessor may be paid an honorarium is calculated from the time the assessor is required to be at court or arrives at court, whichever is latest, up to the time that the assessor is excused from attendance or the court adjourns for the day, whichever is earliest.

CHAPTER V APPEALS AND REVIEW

Appeals

19.(1) Any person wishing to appeal against any order made by the court as contemplated in section 23(1) of the Act must, within 14 days of such order being made, deliver a notice of appeal to the clerk and the complainant or the respondent as the case may be.

(2) The notice of appeal to the High Court having jurisdiction or the Supreme Court of Appeal, must -

- (a) be in writing;
- (b) state whether the whole or only a specific part of the order is being appealed against;
- (c) set out fully the finding of fact or the ruling of law appealed against; and

- (d) where appropriate, set out the order or orders or part thereof against which the appeal is directed and the grounds on which the appeal is founded.

(3) A cross appeal must be noted by delivery within 15 days of the noting of an appeal to the clerk and the complainant or the respondent as the case may be.

(4) A cross appeal must meet the requirements referred to in subregulation (2).

(5) The presiding officer concerned must -

- (a) within 15 days of the noting of an appeal; or
- (b) if the proceedings at an inquiry were taken down or recorded in shorthand or by mechanical means, within 15 days after a transcription of the shorthand notes or mechanical record of the proceedings has been placed before such officer by the clerk concerned, but within a reasonable period after the noting of the appeal,

transmit to the clerk a statement in writing setting out -

- (i) the facts he or she found to be proved;
- (ii) his or her reasons for any finding of fact specified in the notice of appeal as appealed against; and
- (iii) his or her reasons for any ruling on any question of law or for the admission or rejection of any evidence so specified as appealed against.

(6)(a) The clerk concerned must, notwithstanding the provisions of subregulation (5)(b), if the proceedings at an inquiry were taken down or recorded in shorthand or by mechanical means and an appeal has been noted, forthwith cause the shorthand notes or the mechanical record of the proceedings to be transcribed.

(b) The person who noted an appeal bears the costs of the transcription contemplated in paragraph (a): Provided that if the presiding officer is satisfied that such person is unable to pay the costs, the costs or part thereof must be paid by the State.

(7)(a) After an appeal has been noted in terms of subregulation (1) the appeal must be prosecuted as if it were an appeal against the decision of a magistrate in a civil matter, and the rules regulating the conduct of the proceedings of the several provincial and local divisions of the High Court in so far as they relate to civil appeals from the magistrates' courts apply, with the necessary changes, to any such appeal.

(b) The provisions of the relevant Uniform Rules of Court with regard to an appeal from a High Court to the Supreme Court of Appeal apply with the necessary changes.

Review

20.(1) Within seven days after the finalisation of the proceedings in which a determination is made as contemplated in section 23(5)(a) of the Act, the clerk must forward the following to the registrar of the High Court for purposes of review:

- (a) The record of the proceedings in the matter, or a certified copy thereof together with any remarks the presiding officer wishes to append thereto; and
- (b) any written statement or argument furnished to the clerk by the parties.

(2) The written statement or argument referred to in subregulation (1) must be submitted to the clerk by the parties within five days after the proceedings were finalised.

CHAPTER VI EQUALITY REVIEW COMMITTEE

Terms and conditions of appointment of members of Committee

21.(1) The office of a member of the Committee referred to in section 32(a), (d) and (e) of the Act becomes vacant -

- (a) when a member dies;
- (b) when the term of office of a member expires;
- (c) when, in the opinion of the Minister, a member becomes unable to act as a member; or

- (d) when a member resigns by giving the Minister three months' notice thereof in writing.

(2) A vacancy must be filled as soon as possible in accordance with the provisions of section 32 of the Act.

(3) A vacancy so filled is for the unexpired period of the term of office in respect of which the vacancy occurred.

Powers and functions of Committee

22. In addition to the powers and functions referred to in the Act, the Committee must advise the Minister on further measures to give full effect to the Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women.

CHAPTER VII MISCELLANEOUS

Offences and penalties

23. Any person who submits false information in terms of a provision of these regulations is guilty of an offence and on conviction is liable to a fine or to imprisonment for a period not exceeding twelve months.

Short title and commencement

24. These regulations are called the Regulations Relating to the Promotion of Equality and Prevention of Unfair Discrimination, 2003 and shall come into operation on 16 June 2003.

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| | | | | |
| | | | | |
| | | | | |
| If you were previously employed in the Public Service, indicate whether any condition exists that prevents your re-appointment. | | | Yes | No |
| If yes, provide the name of the previous employing department | | | | |

PART F: REFERENCES

| Name | Relationship to you | Tel. No. (office hours) |
|------|---------------------|-------------------------|
| | | |
| | | |
| | | |

PART G: DECLARATION

I declare that all the information provided (including any attachments) is complete and correct to the best of my knowledge. I understand that any false information supplied could lead to my application being disqualified or my discharge if I am appointed.

Signed atthis.....day of20.....

.....
Signature of Applicant

FORM 2

INSTITUTION OF PROCEEDINGS IN TERMS OF SECTION 20 OF THE PROMOTION OF EQUALITY AND PREVENTION OF UNFAIR DISCRIMINATION ACT (ACT NO. 4 OF 2000)

[Regulation 6 (1)]

- Note:**
1. *Affidavits of other persons or other documentary evidence in support of the matter must be attached.*
 2. *Your attention is drawn to the fact that the equality court may refer the matter to an alternative forum. If the matter is referred back to the equality court the clerk will inform you accordingly.*

[If the space provided is inadequate, submit information as an Annexure to this form and sign each page.]

PART A: PARTICULARS OF COMPLAINANT (to be completed if lodging complaint on own behalf)

| | | | | | | | | | | | | | | | | | | | | | | |
|---|----------------------------|---------------|------------|----------------|--------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|---|---|
| Surname: | | | | | | | | | | | | | | | | | | | | | | |
| Full names | | | | | | | | | | | | | | | | | | | | | | |
| ID. No./Date of birth: | | | | | | | | | | | | | | | | | | | | | / | / |
| Residential address: | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | |
| | Code () | | | | | | | | | | | | | | | | | | | | | |
| Residential telephone number: | | | | | | | | | | | | | | | | | | | | | | |
| Cellular telephone number: | | | | | | | | | | | | | | | | | | | | | | |
| Work address: | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | |
| | Code () | | | | | | | | | | | | | | | | | | | | | |
| Work telephone number: | | | | | | | | | | | | | | | | | | | | | | |
| Fax number: | | | | | | | | | | | | | | | | | | | | | | |
| Physical address (where documents can be served): | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | |
| | Code () | | | | | | | | | | | | | | | | | | | | | |
| Preferred method in which the form is to be served: | Registered post | E-mail | Fax | Sheriff | Clerk | | | | | | | | | | | | | | | | | |
| Correspondence contact details (In terms of above) | | | | | | | | | | | | | | | | | | | | | | |
| E-mail address: | | | | | | | | | | | | | | | | | | | | | | |
| Other relevant information (such as financial position, availability of transport, socio-economic status, if an interpreter will be | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | |

| | |
|--|---------------------|
| Name(s) and address(es) of person(s) on whose behalf you are acting. | |
| | |
| | Code () |

PART C: PARTICULARS OF RESPONDENT(S) (The under mentioned particulars should be furnished in respect of each respondent.

| | | | | | | |
|--|--|------------------------|---------------|----------------|----------------|--------------|
| Name of person(s)/organization(s) against whom/which proceedings are instituted: | | | | | | |
| | | | | | | |
| | | | | | | |
| ID. No./Date of birth/Registration No.: | / / | | | | | |
| Residential address (if applicable): | | | | | | |
| | | | | | | |
| | Code () | | | | | |
| Residential telephone number: | | | | | | |
| Cellular telephone number: | | | | | | |
| Work/Business address: | | | | | | |
| | | | | | | |
| | Code () | | | | | |
| Work telephone number: | | | | | | |
| Fax number: | | | | | | |
| Preferred method in which the form is to be served: | <table border="1" style="width: 100%; text-align: center;"> <tr> <td>Registered post</td> <td>E-mail</td> <td>Fax</td> <td>Sheriff</td> <td>Clerk</td> </tr> </table> | Registered post | E-mail | Fax | Sheriff | Clerk |
| | Registered post | E-mail | Fax | Sheriff | Clerk | |
| | | | | | | |
| Correspondence contact details (In terms of above) | | | | | | |
| Physical address (where documents can be served): | | | | | | |
| | | | | | | |
| | Code () | | | | | |
| E-mail address: | | | | | | |

PART D: PARTICULARS OF PERSON APPEARING ON BEHALF OF COMPLAINANT

| | |
|---|--|
| Full names and surname of person appearing on your behalf: (representative) | |
| | |

| | |
|--|--|
| | |
| The response of the institutions/bodies mentioned above: | |
| | |
| | |
| | |

Signed atthis.....day of.....20.....

.....
Signature of Complainant/Representative of class of persons/institution/organization

PART G: AFFIDAVIT

I certify that before administering the oath/affirmation, I asked the deponent the following questions and wrote down his/her answers in his/her presence:

- (1) Do you know and understand the contents of the declaration?
 Answer:.....
- (2) Do you have any objection to taking the prescribed oath?
 Answer:.....
- (3) Do you consider the prescribed oath to be binding on your conscience?
 Answer:.....

I certify that the deponent has acknowledged that he/she knows and understands the contents of this declaration. The deponent uttered the following words: "I swear that the contents of this declaration are true, so help me God."/" I truly affirm that the contents of the declaration are true." The signature/mark of the deponent was affixed to the declaration in my presence.

.....
 Commissioner of Oaths

Full first names and

| | |
|---------------------------------|-------------------------------------|
| surname..... | |
| | |
| (Block letters) | |
| Designation (rank)..... | Ex Officio Republic of South Africa |
| Business | |
| address..... | |
| | Code..... |
| (Street address must be stated) | |
| Date:..... | Place..... |

.....

PART C: INVITATION TO RESPONDENT TO RESPOND TO ALLEGATIONS AND TO SUBMIT INFORMATION

- (a) You are hereby invited to -
 - (i) respond to the complaint(s) mentioned in part B; and
 - (ii) submit any information you wish to bring to the attention of the presiding officer, relating to your personal circumstances (e.g. your financial and socio-economic position). You may also indicate whether the matter in your opinion should be heard by the court or any other forum, stating reasons for your preference.
- (b) The information must be in writing and in the form of an affidavit and must be submitted to the clerk of the above-mentioned court on or before
- (c) At the date referred to in paragraph (b) above, the matter will be referred to the presiding officer.

PART D: GENERAL INFORMATION

Your attention is drawn to the fact that the presiding officer may decide to refer the matter to an alternative forum (such as the Human Rights Commission, the Gender Commission etc.) in terms of section 20(5)(a) of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000), for a decision and that the alternative forum may refer the matter back to the equality court for finalisation. The clerk of the court will inform all the parties accordingly.

Signed atthis.....day of.....20.....

.....

Clerk of the Equality Court

PART E: RETURN OF SERVICE

I,, certify that I have delivered a copy of the notice to
..... personally.

Signed atthis.....day of.....20.....

.....

*Sheriff/.....

*Delete whichever is not applicable

specified above, the presiding officer may order that the proceedings continue in the respondent's absence and that you pay the costs of the complainant.

(iv) The attention of the complainant is also drawn to the fact that should he or she fail to appear before the court as specified above, the presiding officer may dismiss the complaint and order the complainant to pay the costs of the respondent.

PART B: RETURN OF SERVICE (To be completed in respect of both the complainant and the respondent)

I,, certify that I have -

* delivered a copy of the notice to personally;

or

* offered a copy of the notice for delivery to personally;

or

* offered a copy of the notice to a person apparently not younger than the age of 16 years and apparently residing or employed at the *residence/place of employment/place of business of, since he/she could not conveniently be found;

or

* *affixed/placed a copy of the notice to/in the *outer/principal door/security gate/post box of the *residence/place of employment/place of business of, since he/she prevented the service by keeping his/her *residence/place of employment/place of business closed.

PART C: OTHER MANNER OF NOTIFICATION

.....

.....

Signed atthis.....day of.....20.....

.....

**Sheriff/*

*Delete whichever is not applicable

hereby transfer the matter in terms of section 20(5) of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000) to:

.....
.....
.....(name, address, tel. no. of the alternative forum)

2. I also wish to make the following remarks/comment regarding the matter:

.....
.....
.....
.....

3. You are required to report back to the above-mentioned Court within days of receipt hereof, regarding the progress made in the matter.

Signed atthis.....day of.....20.....

.....
Presiding officer

PART B: REFERRAL OF MATTER TO EQUALITY COURT (SECTION 20(8))

I, in my capacity as
..... of

the alternative forum to which the above-mentioned matter was referred, hereby refer the matter back to the equality court in terms of section *20(8)(a)/20(8)(b) of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000) for the following reasons:

.....
.....
.....
.....
.....

Signed at.....this.....day of.....20.....

.....

Signature

*Delete whichever is not applicable

PART B: RETURN OF SERVICE

I,, certify that I have -

* delivered a copy of the subpoena to personally;

or

* offered a copy of the subpoena for delivery to personally;

or

* offered a copy of the subpoena to a person apparently not younger than the age of 16 years and apparently residing or employed at the *residence/place of employment/place of business of, since he/she could not conveniently be found;

or

* *affixed/placed a copy of the subpoena to/in the *outer/principal door/security gate/post box of the *residence/place of employment/place of business of, since he/she prevented the service by keeping his/her *residence/place of employment/place of business closed.

Signed atthis.....day of.....20.....

.....

Signature of person who served subpoena

Full first names and surname.....

.....

(Block letters)

Designation (rank).....Ex Officio Republic of South Africa

Business address.....
.....code.....

(Street address must be stated)

Telephone numberFax number.....

Date:.....Place.....

*Delete whichever is not applicable