



# Government Gazette

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## THE PRESIDENCY

No. 95 15 January 2003

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

**No. 52 of 2002: Promotion of Equity and Prevention of Unfair Discrimination Amendment Act, 2002.**



**AIDS HELPLINE: 0800-123-22 Prevention is the cure**

Act No. 52, 2002 PROMOTION OF EQUALITY AND PREVENTION OF  
UNFAIR DISCRIMINATION AMENDMENT ACT, 2002

**GENERAL EXPLANATORY NOTE:**

- [                    ] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

*(English text signed by the President.)*  
*(Assented to 30 December 2002.)*

# ACT

To amend the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000, so as to further provide for the training and designation of presiding officers of equality courts for purposes of the Act; to provide for the designation of magistrates' courts as equality courts; to further regulate the training of the clerks of equality courts; and to provide for matters connected therewith.

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Substitution of section 16 of Act 4 of 2000**

1. The following section is hereby substituted for section 16 of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (hereinafter referred to as the principal Act): 5

**“Equality courts and presiding officers**

- 16.** (1) For the purposes of this Act, but subject to section 31—
- |  |                               |
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| <p>(a) every High Court is an equality court for the area of its jurisdiction;</p> <p>(b) any judge may, subject to subsection (2), be designated in writing by the Judge President as a presiding officer of the equality court of the area in respect of which he or she is a judge;</p> <p>(c) the Minister must, after consultation with the head of an administrative region defined in section 1 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), by notice in the <i>Gazette</i>—</p> <p style="padding-left: 20px;">(i) designate one or more magistrate's courts as equality courts for the administrative region concerned;</p> <p style="padding-left: 20px;">(ii) define the area of jurisdiction of each equality court, which may consist of any number of districts, sub-districts or other areas of jurisdiction created in terms of section 2 of the Magistrates' Courts Act, 1944;</p> | <p>10</p> <p>15</p> <p>20</p> |
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- (iii) increase or reduce the area of jurisdiction of each equality court;  
 (iv) appoint one or more places within the area of jurisdiction of each equality court for the holding of equality court sittings;  
 (v) withdraw or vary any notice under this paragraph; and
- (d) the head of an administrative region contemplated in paragraph (c) must, subject to subsection (2), designate in writing any magistrate or additional magistrate as a presiding officer of the equality court. 5
- (2) Only a judge, magistrate or additional magistrate who has completed a training course as a presiding officer of an equality court—
- (a) before the date of commencement of section 31; or 10  
 (b) as contemplated in section 31(4),  
 and whose name has been included on the list contemplated in subsection (4)(a), may be designated as such in terms of subsection (1).
- (3) The Judges President and the heads of administrative regions must—
- (a) take all reasonable steps within available resources to designate at least one presiding officer for each equality court within his or her area of jurisdiction; and 15  
 (b) without delay, inform the Director-General of the Department of any judge, magistrate or additional magistrate who has completed a training course as contemplated in section 31(4) and (5) or who has been designated in terms of subsection (1). 20
- (4) The Director-General of the Department must compile and keep a list of every judge, magistrate and additional magistrate who has—
- (a) completed a training course as contemplated in section 31(4) and (5); 25  
 or  
 (b) been designated as a presiding officer of an equality court in terms of subsection (1).
- (5) A presiding officer must perform the functions and duties and exercise the powers assigned to or conferred on him or her under this Act or any other law.”. 30

**Amendment of section 17 of Act 4 of 2000**

2. Section 17 of the principal Act is hereby amended by the—

- (a) substitution for paragraphs (a) and (b) of subsection (1) of the following paragraphs, respectively:

“(a) Subject to subsection (2) and the laws governing the public service, the Director-General of the Department may, for every equality court, appoint or designate one or more officers in the Department, or may appoint one or more persons in the prescribed manner and on the prescribed conditions, as clerks of the equality court, who must generally assist the court to which they are attached in performing its functions and who must perform the functions as may be prescribed. 35  
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(b) If a clerk of an equality court is for any reason unable to act as such or if no clerk has been appointed or designated for any equality court under paragraph (a), the presiding officer concerned may, despite subsection (2), designate any competent officer in the Department to act as clerk for as long as the said clerk is unable to act or until a clerk is appointed or designated under paragraph (a), as the case may be.”: and 45

- (b) addition of the following subsections:

“(2) Only an officer or person contemplated in subsection (1)(a) who has completed a training course as clerk of an equality court— 50

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(a) before the date of commencement of section 31; or  
 (b) as contemplated in section 31(6),  
 and whose name has been included on the list contemplated in subsection  
 (3), may be appointed or designated as such under subsection (1)(a).

(3) The Director-General of the Department must compile and keep a  
 list of every officer or person who has—

(a) completed a training course as contemplated in section 31(6); or  
 (b) been designated or appointed as a clerk of an equality court in terms  
 of subsection (1)(a).”

**Amendment of section 31 of Act 4 of 2000**

3. The following section is hereby substituted for section 31 of the principal Act:

**“Implementation of Act**

**31.** (1) Despite section 16(1) no proceedings may be instituted in  
 any court unless a presiding officer and one or more clerks are available.

(2) For purposes of giving full effect to this Act and making the Act as  
 accessible as possible—

(a) and in giving effect to subsection (1), judges, magistrates or additional  
 magistrates, as the case may be, and clerks referred to in subsection (1)  
 may be—

(i) designated as presiding officers; and

(ii) appointed or designated as clerks,

respectively, for one or more equality courts;

(b) the Minister must make the Act available in all official languages in the  
 prescribed manner within a period of two years after the commence-  
 ment of this Act.

(3) The Director-General of the Department must take all reasonable  
 steps within the available resources of the Department to ensure that a clerk  
 is available for each court in the Republic.

(4) The Chief Justice must, in consultation with the Judicial Service  
 Commission and the Magistrates Commission, develop the content of  
 training courses with a view to building a dedicated and experienced pool  
 of trained and specialised presiding officers, for purposes of presiding in  
 court proceedings as contemplated in this Act, by providing—

(a) social context training for presiding officers; and

(b) uniform norms, standards and procedures to be observed by presiding  
 officers in the performance of their functions and duties and in the  
 exercise of their powers.

(5) The Chief Justice must, in consultation with the Judicial Service  
 Commission, the Magistrates Commission and the Minister, implement the  
 training courses contemplated in subsection (4).

(6) The Director-General of the Department must develop and imple-  
 ment a training course for clerks of equality courts with the view to building  
 a dedicated and experienced pool of trained and specialised clerks, for  
 purposes of performing their functions and duties as contemplated in this  
 Act, by providing—

(a) social context training for clerks; and

(b) uniform norms, standards and procedures to be observed by clerks in  
 the performance of their functions and duties.

(7) The Minister must table a report in Parliament, as prescribed, relating  
 to the content and implementation of the training courses referred to in  
 subsections (4) and (5).”

**Act No. 52, 2002**      PROMOTION OF EQUALITY AND PREVENTION OF  
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**Short title**

**4.** This Act is called the Promotion of Equality and Prevention of Unfair Discrimination Amendment Act, 2002.