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People with disabilities re-defined



While South Africans are challenged by the COVID-19 pandemic, the Department of Employment and Labour published an Employment Equity Amendment Bill.

Included in this Bill is the amendment of the definitions contained in the Employment Equity Act.

For purposes of this blog, we are going to focus on the revised definition of disabled people.

Definition of disabled people

The definition of disabled people reads as follow: *“People who have a long-term or recurring physical, mental, intellectual or sensory impairment which, in interaction with various barriers, may substantially limit their prospects of entry or advancement in employment.”*

The above definition is in alignment with the UN Convention on the Rights of Persons with Disabilities. The Convention includes a broad categorization of disabled people. They are of the view that people with different types of disabilities should enjoy equal human rights and freedoms. The Convention also confirms that “disability is an evolving concept which results from the interaction between persons with impairments as well as any attitudinal and environmental barriers that hinder their full and active participation in the society on an equal basis with others.”

Different approaches on disability

o From a medical point of view

In the past a disabled person was only viewed from a medical point of view, *where disability is seen as an impairment*, which renders a person as ‘abnormal’. Disability is viewed as a problem that needs to be fixed or cured, and if not possible, the person is disregarded by society.

o From a social point of view

Alternatively, disability can also be viewed from a social point of view. This means that the focus should rather be on how to remove the barriers which hinders a disabled person to enter the marketplace.

A few examples of these barriers are for instance:

- o A physical barrier - If there are only stairs to enter a building.
- o A stereotype barrier - Assumptions are made on what a disabled person can and cannot do.
- o A stigma barrier – An unreasonable stigma about a person’s mental health condition.

By overcoming the above barriers, a disabled person could be given the opportunity to earn a living, which could both be empowering and dignifying. Although the reality of a person’s impairment cannot be ignored, there should be a shift in society to accommodate a disabled person within reason. If not, it could be unfair discrimination.

Disability from a social point of view is a new concept, which has not yet filtered into the South African workplace. However, if a business approaches disability from this point of view, it will not only benefit the disabled, but the business as well.

Disability and the B-BBEE scorecard

If we look at the *Generic B-BBEE scorecard*, with specific reference to the Management and Control element, a business can earn 2 B-BBEE points if 2% of their total workforce is disabled. Furthermore, under Skills Development, a business can earn 4 B-BBEE points if they spend 0.3% of their leviable amount on black disabled employees.

This means that a business can earn up to 6 B-BBEE points in total on their B-BBEE Scorecard for their disabled employees, which could make a level difference on their B-BBEE compliancy.

In summary, this social approach towards disability could be a win-win situation for both the disabled and the employer.

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