

L.N. 53 of 2007

**EMPLOYMENT AND INDUSTRIAL RELATIONS ACT
(CAP. 452)**

**Equal Treatment in Employment (Amendment) Regulations,
2007**

IN exercise of the powers conferred by articles 31 and 48 (2) of the Employment and Industrial Relations Act, the Minister of Education, Youth and Employment has made the following regulations –

1. The title of these regulations is the Equal Treatment in Employment (Amendment) Regulations, 2007 and they shall be read and construed as one with the Equal Treatment in Employment Regulations, 2004, hereinafter referred to as “the principal regulations”.

Title.

L.N. 461 of 2004.

2. In regulation 3 (2) (b) (ii), reference to regulation 6 shall be substituted by reference to regulation 4A.

Amends regulation 3 of the principal regulations.

3. Immediately after regulation 4 of the principal regulations, there shall be inserted the following new regulation:

Adds new regulation 4A to the principal regulations.

4A. Employers shall provide reasonable accommodation for persons with disabilities. In particular, employers shall take appropriate measures to enable a person with a disability to have access to, participate, or advance in employment, or to undergo training unless such measures would impose a disproportionate burden on the employer:

“Reasonable accommodation.

Provided that this burden is not disproportionate when it is sufficiently remedied by measures existing within the framework of the national disability policy.”.

4. Regulation 10 of the principal regulations shall be amended as follows:

Amends regulation 10 of the principal regulations.

(a) for sub-regulation (1) thereof there shall be substituted the following:

“(1) A person claiming to have been subjected to discriminatory treatment, whether direct or indirect, in relation to his employment in terms of these regulations may, within four months of the alleged breach, refer the matter to the Industrial Tribunal for redress as provided in article 30 of the Act”; and

(b) for sub-regulation (3) thereof there shall be substituted the following:

“(3) In any proceedings mentioned in sub-regulations (1) and (2) of this regulation, where persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before the Court or Industrial Tribunal, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the defendant to prove that there has been no breach of the principle of equal treatment on the hearing of the complaint, and the Court or Industrial Tribunal shall uphold the complaint if the defendant does not prove that he did not commit that unlawful act.”.

Amends regulation
11 of the principal
regulations.

5. For regulation 11 of the principal regulations there shall be substituted the following:

“Defence of
Rights.

11. (1) Nothing shall prevent any association, organization or other legal entity, having a legitimate interest in ensuring that these regulations are complied with, to engage itself either on behalf of or in support of the complainant, with his or her approval, in any judicial or administrative procedure which is provided for the enforcement of obligations under these regulations.

(2) The provisions of sub-regulation (3) of regulation 10 of these regulations shall apply to any proceedings commenced in accordance with this regulation.”.