

## PART I

### 1. INTRODUCTION AND GENERAL CONCEPTS

#### 1.1 Background

The Affirmative Action (Employment) Act, 1998 (Act 29 of 1998) was passed by the Namibian Parliament with a view to redress imbalances at the workplace, arising from the discriminatory socio-economic dispensation which had previously existed in this country. The legislation is intended to foster fair employment practices with regard to matters such as recruitment, selection, appointment, training, promotion, and equitable remuneration for previously disadvantaged people - more particularly, previously racially disadvantaged people, women and persons with disabilities, referred to as designated groups in the Act. The Act is very specific about requirements, which must be met by employers to whom its provisions apply. Chief amongst the requirements is the drafting of a three year Affirmative Action plan in close consultation with employees, which is submitted in the form of an Affirmative Action report to the Employment Equity Commission at prescribed intervals.

The first report by public sector relevant employers was due on 4 August 2000 and the first report by private sector relevant employers had to be submitted on 6 February 2001. Further (feedback) reports on the Affirmative Action plan's implementation have to be submitted at yearly intervals thereafter, until the next Affirmative Action plan is due. This process is repeated in three year cycles until such time when Government is satisfied that employment inequalities have been satisfactorily remedied.

In terms of section 5(e) of the Act, the Employment Equity Commission may, for the purpose of achieving its objects, issue guidelines in relation to the application of any provision of the Act to assist relevant employers in fulfilling their obligations. The present Guidelines have consequently been compiled for this purpose and are intended to facilitate competent drafting and implementation of Affirmative Action plans to the maximum benefit of all stakeholders. Whilst care has been taken to portray the requirements in an accurate, yet practical and user-friendly manner, the Guidelines must not be regarded as constituting rigid rules in their own right. It is important that the Guidelines be read together with the Act itself, as well as with the relevant Government Notices, where applicable.

#### 1.2 Overview of Guidelines

The Guidelines are divided into four Parts. Part I, comprising the Introduction and General Concepts, is intended to give a brief explanation of the nature and purpose of the Guidelines, and also highlights the most important elements of an Affirmative Action plan and related concepts.

Part II gives an explanatory summary of the main provisions of the Act from an operational perspective. The text concentrates on important information which employers, employees and unions need to be aware of, rather than on incidental administrative matters. Appearing at the end of this Part, is a Basic Features Diagram

which describes certain components of the Act in graphic style, as well as a Procedural Flow-chart which gives a simplified overview of key role-players, processes and outcomes in the application of the Affirmative Action (Employment) Act.

Part III consists of an innovative inclusion of abbreviated models meant to serve as virtual blue-prints for the benefit of relevant employers. The three guiding models (Model Policy, Model Plan and Model Evaluation) have been presented in skeleton form, meaning that a relevant employer can follow their structure, sequence, headings, etc., and then insert whatever data and other substantive material is applicable in its own specific case. Again it should be emphasised that the models are there to guide and simplify matters: They need not be slavishly followed nor should the provisions of the Act be lost from sight when using them.

Part IV of the Guidelines provides the forms, which the Commission prescribes to be used to prepare and submit the Affirmative Action plan. The forms have been designed for the convenience of users, simplifying and standardising procedures and the submission of data. Whilst being largely self-explanatory, footnotes have been added to further elucidate their application and prevent any misunderstandings. Careful completion of the forms will assist all parties to absolve their obligations under the Affirmative Action (Employment) Act in an expeditious manner with a minimum of trouble.

### **1.3 Required Elements of the Affirmative Action Plan**

The required elements of an Affirmative Action plan are that it must -

- cover a period of 3 years;
- identify employment barriers, workforce imbalances and other human resources shortcomings impeding employment equity;
- have objectives for each year of the plan;
- contain specific affirmative action measures that the employer intends to take with sufficient detail on strategies, procedures and methods;
- specify measurable targets, set standards and define anticipated outcomes;
- identify all the role-players and their specific duties;
- set up realistic time-frames;
- give actual numbers of employees in the designated groups which the employer aims to have in order to achieve equitable representation;
- state when and how the employer intends to achieve the numerical goals;
- give an annual timetable for non-numerical goals and objectives;
- demarcate the resources to be utilized (equipment, budgetary allocations, personnel, etc.);
- have procedures to resolve disputes over the interpretation and implementation of the plan;
- establish procedures to monitor and evaluate implementation of the plan; and
- be drafted in a clear, comprehensible style and be submitted as a neatly compiled and bound document.

## 1.4 Qualities of a Good Affirmative Action Plan

In addition to the formal requirements specified in the preceding section, a good Affirmative Action plan also bears evidence of certain supplementary attributes which set it apart from less conscientious endeavours. Amongst such features the Commission would like to emphasise the following.

- A good Affirmative Action plan goes further than merely complying with minimal legal requirements - it distinctly embraces both the spirit and letter of the legislation.
- It convincingly promotes equal employment opportunity and competently addresses barriers that adversely affect equal employment opportunity.
- It avoids inflexible quotas, in favour of attainable, justifiable goals in terms of numbers and implementation periods.
- It strives to eliminate both social and job specific barriers that may exist for members of designated groups. These may be identified through organisational and cultural audits.
- It involves dedication from the top corporate leadership through to front-line supervisors. Management commitment at all levels must be a prime driving force.
- It ensures management and employee communication, whereby information about equal opportunities policies, programmes and practices is distributed to all employees, informing everyone about management's standpoints on the various aspects of equal opportunities, including career opportunities and the competencies, skills and abilities required.
- It produces noteworthy results. An Affirmative Action plan may look good on paper, but without consistent implementation and visible results, its value is subject to speculation and remains unrealised.
- Finally, a good Affirmative Action plan does not cause or result in unfairness. It does not trample on the rights of non-designated groups. For example, it will not require the dismissal of such persons and their replacement with designated group employees, nor can it create an absolute barrier to the advancement of non-designated groups. In addition, an individual benefiting from an Affirmative Action plan must be suitably qualified to competently do the job, and should be required to maintain acceptable standards.

## 1.5 Affirmative Action Policy

The Affirmative Action (Employment) Act does not specifically require a relevant employer to have a formal Affirmative Action policy for submission as part of the Affirmative Action report. However, the Commission is of the opinion that such a policy

is an important, and therefore advisable, initial step to be undertaken by an employer in consultation with employees, prior to the drafting of the Affirmative Action plan.

The Affirmative Action policy ought to be well structured and phrased for ease of interpretation and clarity of purpose. It should contain opening remarks on affirmative action principles and rationale, followed by a statement of management's commitment to employment equity in all spheres. This would be followed by a formulation of the overall goal, realistic objectives derived from the goal, and broad strategies to attain the objectives.

The area of strategies is of particular importance and depending on the nature of the enterprise - its corporate culture, existing human resources composition and personnel policies - would variously elaborate on matters such as recruitment/selection, orientation training, skills development, upgrading of qualifications, team building and interpersonal relations, performance appraisal and promotion, professional standards, client relations and out-sourcing.

After approval by the top decision making body, the Affirmative Action policy would form the foundation of the Affirmative Action plan and as such must be made accessible to all employees. The policy document should appear towards the beginning of the Affirmative Action Report.

## **1.6 Consultation**

The relevant employer must establish a representative consultative forum or committee to be chaired by management. Structured along open and democratic lines, the consultations should, as far as practicable, include information sessions, surveys, written employee submissions, circulars, group discussions and meetings with a trade union where applicable. The functions of the consultative forum also include -

- the opportunity to meet and report back to employees and management;
- reasonable opportunity for employee representatives to meet with management representatives;
- the request, receipt and consideration of relevant information; and
- being given adequate time for the above steps.

## **1.7 Workplace Culture**

Relevant employers must foster a culture which is primarily concerned with interpersonal and inter-group communications and relationships at the workplace. They should promote mutual respect and actively confront prejudice, stereotyping and discriminatory practices.

Employees need to be sensitised to disability, gender and racial/ethnic discrimination. Employers should not assume that all employees will naturally and spontaneously be able to work well with people from diverse racial, gender, disability and cultural backgrounds. Extra effort on the part of employers will be needed to achieve a receptive and committed environment where employment equity can thrive.

Ultimately, the goal is the optimal realization of the potential of every member of the workplace community. The benefits will include decreased conflict and stress, improvement in morale and job satisfaction, and last but not least, enhanced productivity of the heterogeneous staff contingent.

## **1.8 Human Resources Development**

Relevant employers must put in place measures to retain and develop employees from designated groups as a focal part of their Affirmative Action plans. These should include measures, such as:

- Assessment of training needs and development potential amongst existing employee of designated groups and planning of appropriate training courses.
- Support programmes for new employees including properly considered induction and mentorship programmes which are sensitive to culture, gender and disability diversity.
- Accelerated development programmes for high potential candidates, linked to appropriate and needs-based training and development.
- Long term career paths and succession plans, especially for the highly competent members of designated groups.
- Resolute efforts to deal with barriers in the environment such as stereotypes and negative attitudes on the part of employees who have traditionally occupied senior and privileged positions.
- Incentives to encourage employees to adopt a long term view of their career in the organisation as well as to take personal interest in its well-being. Options such as recognition for self study, productivity bonuses, share ownership and other similar empowerment schemes may be considered.

## **1.9 Understudies**

In complying with the requirement to train a Namibian citizen as the under study of every non-Namibian citizen (including employees with permanent residence status) employed by an organization, the following aspects should be borne in mind:

- More than one Namibian under study may be identified for every position involved.
- Understudies must be officially informed of their assignment as under study and must be provided with a full explanation of the purpose thereof.
- A non-Namibian employee must be informed of the name of the Namibian employee who has been assigned to understudy him or her and the purpose thereof.

- The relevant employer must embark on a suitable training programme for each under study, which can include formal training, on-the job training, mentorship and other forms of human resource development.
- A Namibian under study need not necessarily work in the same business unit or occupy a position immediately below the job-grade of the non-Namibian employee, although there should be a logical affinity between the two posts.
- In exceptional, justified circumstances, such as when a candidate has been given a fulltime study bursary and a formal agreement exists between the relevant employer and the individual concerned to the effect that the employer will employ him/her upon successful completion of studies, a Namibian under study need not necessarily be in the employ of the relevant employer.
- The act of assigning a Namibian under study should not be regarded as an undertaking to necessarily promote the under study involved to that position.
- When a post occupied by a non-Namibian citizen becomes vacant, the assigned Namibian under study should be promoted to the position if he/she is suitably qualified at that stage – if not, then the relevant employer may appoint another suitably qualified Namibian candidate in the post.
- The employment contract of a non-Namibian citizen who enjoys permanent residence status is not required to be terminated by the relevant employer in order to vacate the post for a Namibian understudy – the principles of natural attrition should apply.
- It is not a requirement of the Affirmative Action (Employment) Act, 1998, that an additional staff member must be appointed in order to provide for a suitable understudy.

### **1.10 Implementation**

The implementation of affirmative action is a management responsibility to be carried out in consultation with employees. Effective communication is a vital aspect of implementation.

Decisions on appropriate affirmative action implementation methods are usually determined by variables such as the size of an undertaking, its line of business, location, organisational structure, the extent to which existing policies and practices already reflect the basic ingredients of employment equity, and financial resources.

The situation with regard to these variables will differ from one enterprise to another and will dictate the level of effort and the time-span required to make affirmative action work. Where employers approach affirmative action correctly, such factors will, of course, already have been clearly reflected in the organisation's Affirmative Action policy and Affirmative Action plan.

During the practical implementation of affirmative action special attention must be given to factors which could influence the process in either a positive or negative manner, and to ways in which these can be encouraged or deterred, as the case may be.

It is of paramount importance that affirmative action should not be implemented as if it were something unique and standing on its own, separated from other organisational processes. If that were to be the case, affirmative action could acquire an unwanted aura of artificial imposition, which would be in the interests of neither the employees nor the organisation.

Instead, affirmative action should be viewed and practised as an integral component of the undertaking's overall response to the challenges of a changing business environment. It should be closely intertwined with other elements of strategic management to enhance efficiency and competitiveness, whilst simultaneously promoting employment equity in all its various forms.

Monitoring, updating and making necessary adjustments where needed, are ongoing processes in which the affirmative action consultative committee should participate on a regular basis. During the initial years of implementation, the committee should act as a permanent body and likewise keep employees abreast of developments on a constant basis. As with all other phases of preparing and implementing the Affirmative Action plan, effective monitoring and feedback requires close cooperation between management and the committee.

## PART II

## 2. THE AFFIRMATIVE ACTION (EMPLOYMENT) ACT, 1998

### 2.1 STRUCTURE OF ACT

The Affirmative Action (Employment) Act, 1998 (Act 29 of 1998), was published in Government Gazette No.1962 of 24 September 1998. The Act is comprised of 50 sections subdivided into an Introductory Component (Definitions (sec.1.) and Application of Act (sec.2.)), followed by three main Parts.

**Part I** contains stipulations relating to the administration of the Act and includes provisions for the establishment of the Employment Equity Commission: its objects, composition, powers, duties and functions.

**Part II** contains the actual body of the Statute and deals with the various affirmative action concepts not dealt with in the definitions section, as well as with affirmative action role players, processes and outcomes.

**Part III** deals with miscellaneous matters including disputes, legal assistance, offences and penalties, regulations and amendments.

### 2.2 IMPORTANT DEFINITIONS

#### DEFINITION OF "AFFIRMATIVE ACTION" (SEC. 17.)

"**Affirmative action**" is defined as a set of "... **measures** designed to ensure that persons in **designated groups** enjoy **equal employment opportunities** at all levels of employment and are **equitably represented** in the workforce of a **relevant employer**."

The highlighted phrases in the definition (**bold print**) are indicative of the cornerstones of the Act, indicating the method (affirmative action measures); target groups (designated groups); objectives (equal employment opportunities and equitable representation): and actors (relevant employers).

The expression '**equal employment opportunities**' means that all direct or indirect discriminatory employment practices, rules or conditions must be eliminated. '**Equitable representation**' refers to the desired situation in which a relevant employer's staff contingent proportionally more or less reflects the country's demographic structure in terms of racial/ethnic composition, percentage of women and proportion of disabled persons.

'**Affirmative action measures**' are stated as including -

- elimination of employment barriers;
- efforts to accommodate persons with disabilities;
- furthering employment opportunities through training programmes; and



- giving preferential treatment in employment decisions to suitably qualified persons from designated groups.

### **DEFINITION OF "EMPLOYMENT BARRIER" (SEC. 1.)**

The expression **'employment barrier'** in the Act means any rule, practice or condition other than a legitimate job requirement which adversely affects persons who are members of a designated group more than it affects persons who are not members of such a designated group. In other words, the Affirmative Action (Employment) Act, 1998, refers here to unfair discrimination.

**'Legitimate job requirements'** refers to genuine and objectively verifiable qualities needed for the successful execution of duties. These could include matters such as extraordinary language requirements, specific school subjects, distinctive technical skills or particular managerial experience.

### **DEFINITION OF "SUITABLY QUALIFIED PERSONS" (SEC. 1.)**

For the purpose of the Act **'suitably qualified person'** is defined as a person who has the abilities, formal qualifications or relevant experience for a position of employment. It is important to note here that any one of these three attributes would entitle an employee or prospective employee to preferential consideration.

### **DEFINITION OF "EMPLOYMENT DECISION" (SEC. 1.)**

In terms of the definition of affirmative action, preferential treatment must be given to employees in designated groups in all employment decisions and any aspects which discriminate unfairly against such employees must be eliminated.

**'Employment decisions'** in this sense means any decisions relating to:

- Access to vocational guidance, training and placement services;
- advertisements;
- recruitment, selection and appointment procedures;
- promotions, demotions and transfers;
- security of tenure and retrenchments;
- access to any other benefits, facilities or services;
- remuneration and other conditions of employment; and
- discipline, suspension or terminations of employment

### **DEFINITION OF "DESIGNATED GROUP" (SECS. 18. & 19.)**

For the purposes of the Act there are three **designated groups** whose members benefit from the implementation of affirmative action measures:

- **Racially disadvantaged persons;**
- **women** (irrespective of race); and

- **persons with disabilities** (physical or mental limitations, irrespective of race or gender) .

The phrase '**racially disadvantaged persons**' means all persons who belong to a racial or ethnic group which formerly had been, or still is, directly or indirectly disadvantaged in the sphere of employment as a consequence of social, economic, or educational imbalances arising out of racially discriminating laws or practices before the independence of Namibia.

Where several suitably qualified candidates from designated groups qualify for a position of employment, an employer must give preference to Namibian citizens and to candidates who belong to more than one designated group. In other words it is the intention of the Act that relative priority be accorded to such individuals.

### **DEFINITION OF "RELEVANT EMPLOYER" (SEC. 20.)**

Employers who have to comply with the Act will be identified by the Minister of Labour in the Government Gazette. Such employers will be named individually or be identified by category. The **criteria** to be used for identifying **relevant employers** will include –

- numerical levels;
- industrial or economic sectors; and
- any other principles or standards deemed appropriate by the Minister.

## **2.3 THE EMPLOYMENT EQUITY COMMISSION**

### **COMPOSITION (SEC. 6.)**

The members of the **Employment Equity Commission** are appointed by the Minister of Labour with the approval of the National Assembly. Members are appointed for a period of 3 years, except the Chairperson who is appointed for 5 years. The Minister is also empowered to designate a Deputy Chairperson from amongst the members.

The 15 member Commission is constituted as follows:

- The chairperson (referred to in the Act as the Commissioner);
- 4 persons representing the State;
- 2 persons representing employers' organizations and 2 persons representing trade unions; and
- 2 persons for each designated group, i.e. for racially disadvantaged persons, women and persons with disabilities, respectively.

The Act also provides for the appointment of alternative members to stand in for full members if the need therefore should arise.

### **POWERS AND FUNCTIONS (VARIOUS SECTIONS)**

The Employment Equity Commission is accorded overall responsibility to achieve the objects of the Act. Included amongst its main powers and functions are to –

- issue guidelines to employers;
- facilitate training programmes and other technical assistance;
- appoint review officers;
- approve, disapprove or conditionally approve affirmative action reports;
- appoint review panels;
- issue affirmative action compliance certificates;
- refer disputes to the Labour Commissioner, and
- to establish awards recognizing affirmative action achievements.

## 2.4 **STATISTICAL ANALYSIS**

### **ANALYSIS OF EQUITABLE REPRESENTATION (SEC.25.)**

Relevant employers are required to conduct a statistical analyses of their workforce reflecting various parameters of the three designated groups as compared to the non-designated group (white males). The aspects to be analyzed for the different groups include -

- **job categories and grades;**
- **employment practises;**
- **number of employees hired, promoted and terminated** in the previous 12 months;
- **salary scales, actual remuneration and benefits of employees;** and
- **citizenship status.**

Having compiled this information, relevant employers must prepare a statistical report and submit the data to the Employment Equity Commission. Included in the report must be a submission of the names of every non-Namibian citizen employed, and the names of the Namibian citizens being trained as under-studies to eventually replace them. The data must be revised on an annual basis.

### **CONSULTATION OF EMPLOYEES (SEC. 24.)**

An important requirement of the Act is that relevant employers must consult with the representatives of their employees, as well as with the trade union, if present, concerning the preparation, implementation, revision and monitoring of affirmative action plans. Employee representatives shall reflect the interests of all occupational categories as well as of designated and non-designated groups.

It is apparent from the above that consultation comprises a virtually permanent feature of affirmative action. A suitable vehicle for this would be a standing management/employee consultative committee commissioned with the task of implementing affirmative action for the enterprise. Whereas management is expected to be pro-active and take the initiative in this regard, it must guard against any tendency to become patronising in the process.

## 2.5 **AFFIRMATIVE ACTION PLANS (SEC. 23.)**

Affirmative action plans constitute the central piece of the legislation. In terms of section 23. of the Act every relevant employer, upon having been identified as such, must prepare and implement a three year affirmative action plan. The chief requirements in this regard are as follows:

- A. The plan must specify affirmative action measures to be instituted in order to -
- eliminate employment barriers against persons in designated groups;
  - make available positions of employment to such persons provided that is reasonably possible (this qualification implies that outright removal of non-designated group employees is not intended); and
  - ensure that such persons are equitably represented in the various positions of employment (it should be noted in this regard that in terms of Section 17.(3) the Employment Equity Commission is required to take into account the availability of suitably qualified persons and of those who are able and willing to acquire the necessary skills).
- B. The plan must set out the affirmative action objectives expected to be achieved and where appropriate numerical goals.
- C. The plan must establish a timetable indicating target dates for its various phases.
- D. The plan must incorporate an internal monitoring procedure to be followed in consultation with employee representatives.
- E. The plan must identify a senior employee who has overall responsibility for implementation thereof.

## **RECORDS (SEC. 26.)**

It is required by the law that a relevant employer must keep a record of -

- the affirmative action plan;
- the minutes of consultations with the representatives of employees and trade union; and
- the analysis, review and statistical report prepared in accordance with section 25.

## 2.6 **AFFIRMATIVE ACTION REPORTS (SECS. 27. & 28.)**

Within a period of 18 months after having been classified as a relevant employer, such person or organisation must submit a first affirmative action report to the Employment Equity Commission. Further follow-up affirmative action reports must then be

submitted every 12 months. Extensions of the period for submission of reports may be granted upon motivated application to the Commission. Any **applications for extension** should be submitted **at least two months before** the due date for submission of the report.

The first affirmative action report is a comprehensive document comprising -

- the **statistical report** (sec. 25.);
- the **affirmative action plan** (sec. 23.);
- a **summary** of affirmative action measures, numerical goals and any other objectives;
- the **names** of non-Namibian citizens and names of under-studies (sec. 19.);
- the **records and documents** used in preparation of the affirmative action report (including the minutes of consultations with the employees or trade union); and
- **any other information** required by the Commission.

The contents of the **further affirmative action reports** are similar to the initial report, but include an **evaluation of implementation** during the preceding period, and a **copy of the approved plan or amendments**. The Act provides that affirmative action reports shall lay open for inspection at the Commission's head office (sec. 29.). Records must be kept of all documentation submitted to the Employment Equity Commission.

## 2.7 ASSESSMENT OF REPORTS

### REVIEW OFFICER (SECS. 30. & 31.)

Upon receipt of a report the Commission appoints a **review officer** from amongst the staff of the Ministry of Labour who is required to evaluate the affirmative action report.

More specifically, the review officer will -

- analyze and review affirmative action reports to ascertain whether the relevant employer has adopted and is implementing an affirmative action plan and has complied with all the provisions of the Act in doing so; and
- submit his or her findings to the Employment Equity Commission and recommend whether the Commission should approve or reject the report (the employer also obtains a copy of the findings and recommendations from the review officer).

In making a recommendation the review officer must take into consideration -

- the **efforts in good faith** of the relevant employer to attain the objectives of the affirmative action plan and the objects of the Act; and
- the **prevailing economic conditions** for the employer and/or the relevant industrial sector, as well as the **availability of suitable designated group candidates**.

The review officer, whose name will be made known to the relevant employer concerned upon appointment, inter alia, has the right to request additional data and documentation and may enter business premises at any reasonable time. In this regard the powers of a review officer are similar to those of a labour inspector appointed under the Labour Act.

### **COMMISSION'S DECISION ON REPORT (SEC. 32.)**

Upon receipt of the review officer's findings and recommendation, the Employment Equity Commission -

- **may approve** the affirmative action report and issue an affirmative action compliance certificate; or
- it **may conditionally approve** the report if the employer undertakes in writing to remedy the shortcomings; or
- it **may disapprove** an affirmative action plan, notifying the employer of the reasons for the rejection, and then referring the matter to a review panel.

Notwithstanding the approval of an affirmative action report, the affirmative action plan shall -

- be amended, if so directed, by the relevant employer subsequent to approval; and
- be revised every three years.

The relevant employer may also at own discretion make any bona fide amendments in consultation with employees and submit them to the Commission for approval. (sec. 33)

### **REVIEW PANEL (SECS. 35. – 39.)**

When the Commission disapproves an affirmative action report it will appoint a **review panel** comprising three commission members plus any other persons it may determine.

- The panel will **conduct a formal public hearing** in order to review the affirmative action report (employers are entitled to legal or other representation at the hearing, and although the panel is not bound by the strict rules of the law of evidence, it must abide by the principles of natural justice and fairness).
- Should the panel find any deficiencies it **will mediate** and endeavour to persuade the employer to undertake to correct the shortcomings.
- If **mediation succeeds** the panel **will approve** the report and set out the undertaking made by the employer.

- If **mediation fails** the panel **will disapprove** the report and **issue a final order** instructing the employer to take specific affirmative action measures and the time frame for such measures.

The Act explicitly states that there is **no appeal against a final order** issued by the review panel. Failure to comply renders the employer liable to criminal prosecution.

## 2.8 **MISCELLANEOUS PROVISIONS**

### **AFFIRMATIVE ACTION COMPLIANCE CERTIFICATE (SECS. 41. & 42.)**

When the Employment Equity Commission approves an affirmative action report it will issue an **affirmative action compliance certificate** which shall be valid from date of issue until the date that -

- the Commission issues another certificate for the next affirmative action report;
- the review panel makes a final order disapproving the next affirmative action report; and
- the relevant employer fails to submit a further affirmative action report after the elapse of 12 months form the date of submission of a previous report.

The Commission will also issue a compliance certificate if it has only conditionally approved the affirmative action report and the employer undertakes in writing to remedy the specified shortcomings.

Significant for employers from an operational point of view, is the provision which stipulates that **unless a relevant employer is in possession of a valid affirmative action compliance certificate, no contract shall be entered into by or on behalf of the State and such employer; nor shall any guarantee, loan, licence, permit, grant or concession be given, made, issued, granted or awarded to any relevant employer by or on behalf of the State.** (Sec.42.(1)).

Whilst the Minister of Labour may grant an exemption from this requirement, that can occur only upon formal application and submission of proof that the absence of a compliance certificate is not due to any shortcoming or fault on the part the employer.

### **REVIEW TIME LIMITS (SEC. 34.)**

In terms of section 34 a relevant employer's affirmative action report shall be deemed to have been approved, if -

- within 90 days after submission the Commission fails to appoint a review officer;  
or
- within 90 days after appointment of a review officer, the officer has failed to forward a copy of his findings and recommendation to the employer concerned or to the Commission.

The employer is however, required to inform the Commission not later than 60 days after appointment of the review officer, that a copy of the findings and recommendation has not been received.

- The Commission may, prior to the lapsing of the 90 day review period, extend it for another period of 90 days.
- The Commission is obliged to issue an affirmative action compliance certificate when an affirmative action report has been deemed to be approved.

### **NON-NAMIBIAN CITIZENS (SEC. 19.)**

Section 19.(3) stipulates that a relevant employer must train a Namibian citizen as the under study of every non-Namibian citizen employed by the firm or organisation. Provision is made, however, in section 19.(4) for the granting of exemptions from this requirement:

- where it is deemed that the trade or profession of the non-Namibian employee is of such specialised nature that it is not reasonably possible for the relevant employer to train a Namibian citizen as under study; or
- where it is for any other reason deemed impractical for the employer to train an under study.

Non-Namibian employees with permanent residence rights are included for the purpose of this provision. A relevant employer would have to apply to the Minister of Labour for an exemption if he/she wishes to retain the services of such an employee and not to train an under study to eventually take over. In this regard it needs to be borne in mind that the Affirmative Action Act, has to be interpreted in context with other relevant laws such as the Labour Act, and the Immigration Act. The Affirmative Action Act does not supersede any law with regard to the rights of a person already in legitimate employment.

### **LIMITATION PARAMETERS (SEC. 43.)**

In seeking to maintain fairness and pragmatism in application, section 43. of the Act determines that, without derogating from the provisions of section 19.(3) (training of Namibian under-studies for positions occupied by non-Namibian citizens) and section 39. (mediation and final order by review panel), **nothing in the Act shall require a relevant employer to:**

- Create new employment positions in the workplace;
- hire or promote an arbitrary or fixed number of persons during a given period;
- hire or promote persons who are not suitably qualified; and
- take employment decisions that act as an absolute bar on the recruitment or promotion prospects of a person who does not belong to a designated group.



## **DISPUTES (SEC. 45.)**

In the event of any affirmative action related **dispute** arising between an employee or his/her representative on the one hand and a relevant employer on the other, the former may bring the matter to the attention of The Employment Equity Commission. If the Commission deems it necessary, it may then refer the matter to the Labour Commissioner to act in respect thereof in terms of the dispute provisions of the Labour Act.

## **PENALTIES (SECS. 36., 47. & 48.)**

The Affirmative Action (Employment) Act, 1998, contains different penalties for failure to comply with different provisions thereof. These vary from a fine or imprisonment not exceeding N\$4 000 or 12 months, respectively, for certain first offences, to a fine or imprisonment not exceeding N\$100 000 or 5 years, respectively, for a second or subsequent offence.

## **2.9 APPLICABLE GOVERNMENT NOTICES**

### **GOVERNMENT NOTICE NO.278 OF 1998**

Government Notice No.278 of 1998 was published in Government Gazette No.1996 on 18 November 1998 and betokened the commencement of the Affirmative Action Act, 1998. In it the Acting Minister of Labour determined that the provisions of the Act, except section 2., sections 19. to 43., inclusive, and sections 45. to 48., inclusive, shall come into operation on the date of publication of the Notice. The measure put certain administrative provisions of the Act into operation and activated the Employment Equity Commission.

### **GOVERNMENT NOTICE NO.156 OF 1999**

This Government Notice, as well as the three Notices referred to in the three sections following hereunder, were published in Government Gazette No.2161 of 6 August 1999. It brought the remaining provisions of the Affirmative Action Act, 1998, into operation. The Minister of Labour determined that section 2., sections 19. to 43., inclusive, and sections 45. to 48., inclusive, shall become operative on the date of publication of the Notice.

### **GOVERNMENT NOTICE NO.157 OF 1999**

Government Notice No.157 of 1999 determined that the first affirmative action report to be submitted in terms of section 27.(1)(b) of the Act by an Office, Ministry or Agency in the Public Service, or by a parastatal, identified as a relevant employer, shall be submitted within a period of one year after the publication of the Notice. This means that affirmative action plans of relevant employers in this category (state and parastatal) had to be submitted by 4 August 2000 at the latest.

## **GOVERNMENT NOTICE NO.158 OF 1999**

This Government Notice, identifies as a relevant employer an employer who employs 50 or more employees, which number must be calculated as the average number of employees employed by the employer during the one year period immediately preceding the date on which the monthly calculations are made. The Notice furthermore determines that no relevant employer shall cease to exist to be a relevant employer as a result of the reduction in the number of employees in the employ of the employer to less than 50.

The effect of this Notice is that private sector relevant employers must submit their first affirmative action reports not later than 18 months from the date of its publication.

In practice it means that the deadline for the submission of the first reports was 6 February 2001.

## **GOVERNMENT NOTICE NO.159 OF 1999 (REGULATIONS)**

The last of the four Government Notices appearing in the Government Gazette of 6 August 1999, Government Notice No.159 of 1999, contains **Regulations** framed by the Minister of Labour under section 48. of the Act.

Regulation 1. provides for **definitions** and defines "the Act" as meaning the Affirmative Action (Employment) Act, 1998.

Part I of the Regulations (Administration) stipulates under regulation 2. (**Keeping of records**) that documents, notices and forms issued in terms of the Act to or by a relevant employer (e.g. an exemption, a compliance certificate, order by a review panel or a notice of change of employer status) must be kept, in addition to the records to be kept in terms of section 26., and must be made available to a review officer for the purpose of inspection.

Part II of the Regulations (Affirmative Action) stipulates under regulation 3.(1) (**Notice by relevant employer**) that every employer who as the result of an increase in the number of employees employed, assumes the status of a relevant employer, must notify the Commission within 30 days of such change.

Regulation 3.(2) specifies that the date on which the Commission receives the notice shall be deemed to be the date of identification as a relevant employer as contemplated in section 27.(1)(a) of the Act. This means that such an employer must submit an affirmative action report within 18 months of that date.

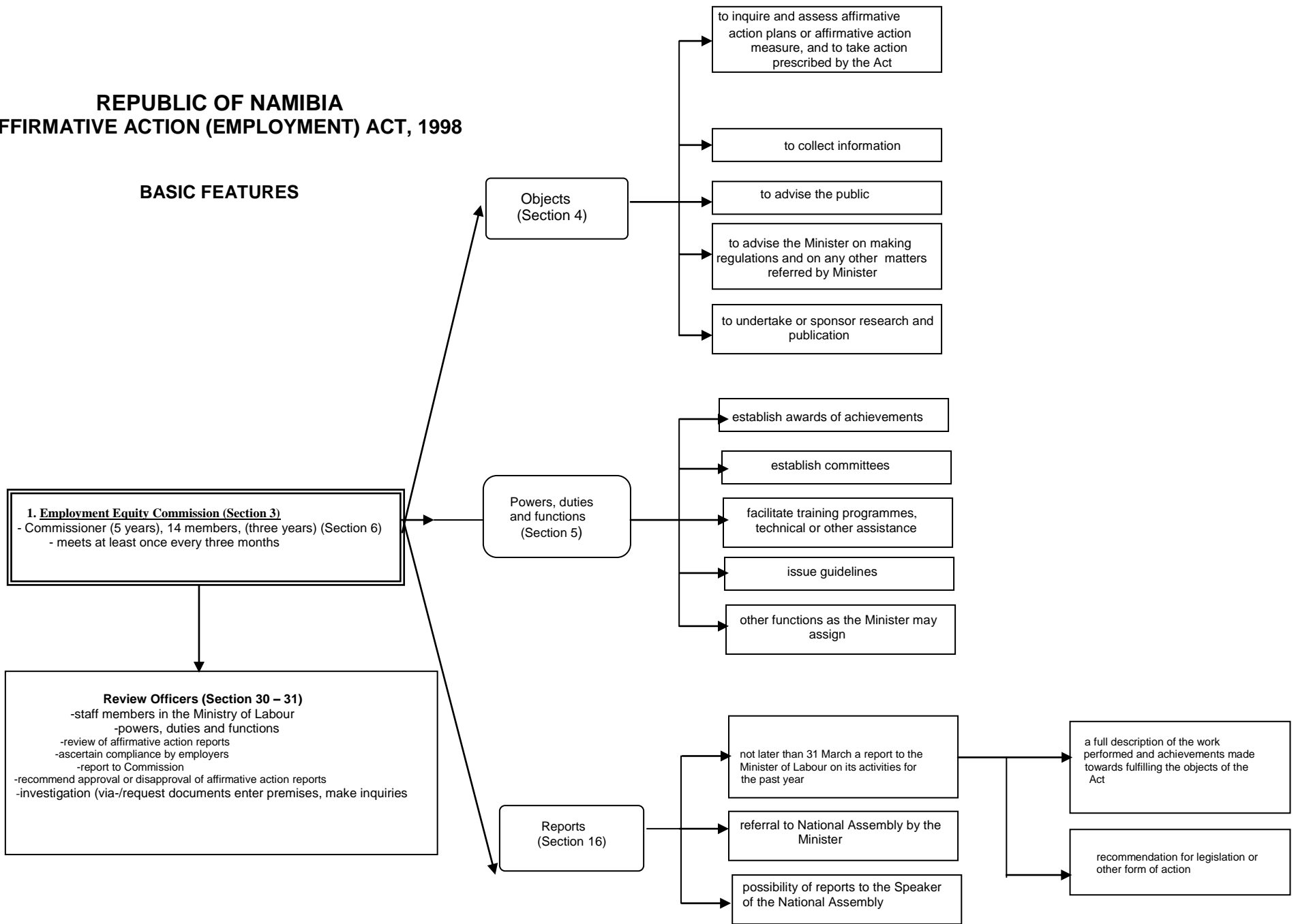
Regulation 3.(3) determines that if the number of employees employed by a relevant employer is reduced to such an extent that the number of such employees become less than the number of employees set out in a notice published under section 20. of the Act, such employer must notify the Commission thereof within 30 days and furnish full particulars of the change.

Regulation 4. **(Form of summons)** provides that a summons referred to in sec. 36.(3) of the Act (summons to appear before a Review Panel) must be in the prescribed form.

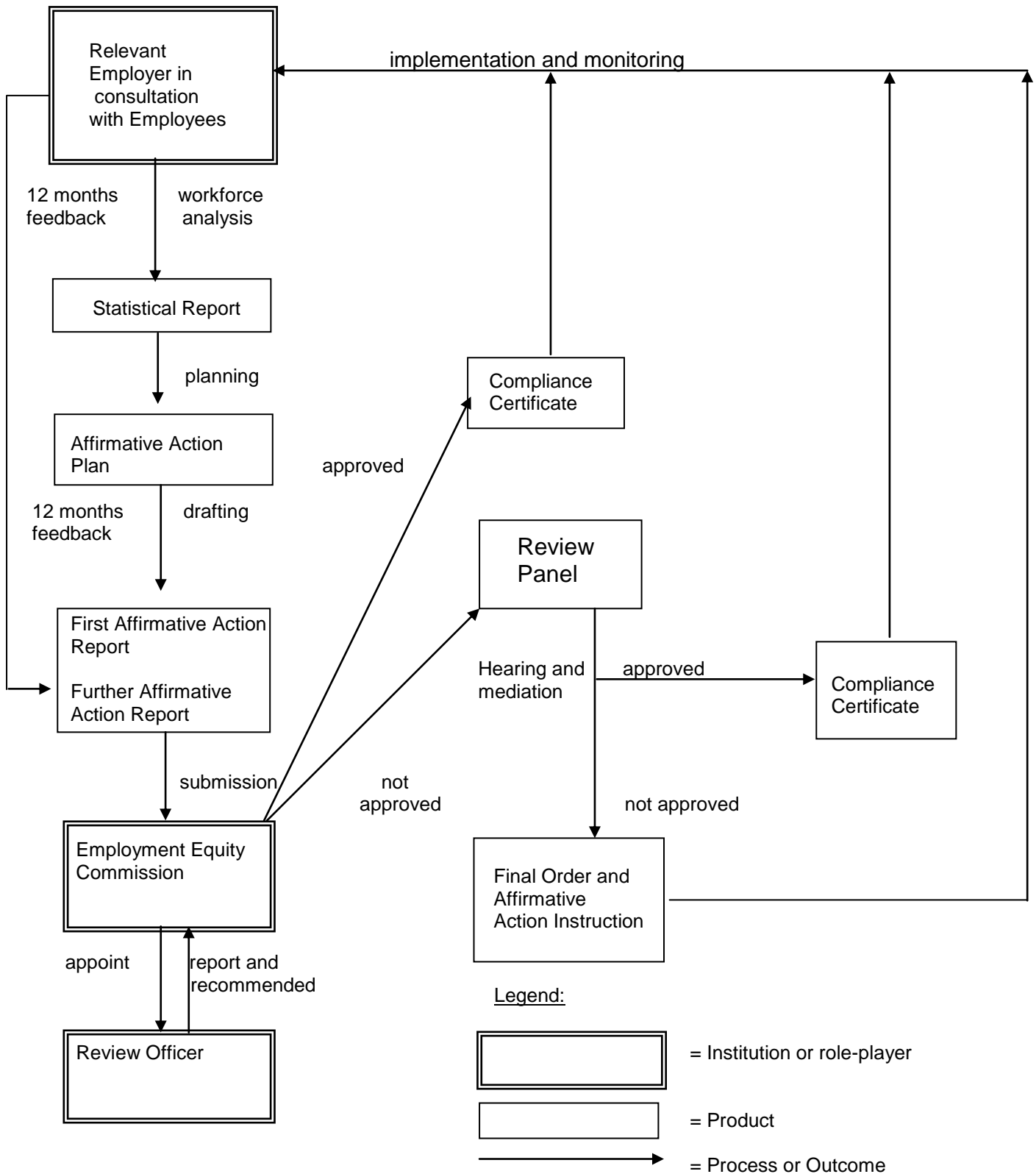
Part III of the Regulations (Miscellaneous) stipulates under regulation 5. **(Offences and penalties)** that any person who contravenes the provisions of any regulation shall, upon conviction, be liable to a fine not exceeding N\$8 000 or to imprisonment not exceeding two years.

**REPUBLIC OF NAMIBIA  
AFFIRMATIVE ACTION (EMPLOYMENT) ACT, 1998**

**BASIC FEATURES**



REPUBLIC OF NAMIBIA  
AFFIRMATIVE ACTION (EMPLOYMENT) ACT, 1998  
Procedural Flowchart



## **PART III**

### **3. GUIDING MODELS**

#### **3.1 MODEL AFFIRMATIVE ACTION POLICY**

##### **1. INTRODUCTION**

Brief introduction of company's intentions on Affirmative Action and background of the company. Through the implementation of Affirmative Action programmes, company will create an environment of sustainable diversity as its competitive advantage for the future.

##### **2. AFFIRMATIVE ACTION GOALS**

- 2.1 No discriminatory practices, implicit or explicit, to exist anywhere in the organisation.
- 2.2 No barriers to exist in the workplace that unfairly restrict employment and opportunities of any person.
- 2.3 An enhanced representation of currently underrepresented categories of persons, with the emphasis on previously racially disadvantaged persons, women and persons with disabilities at all levels in the organisation, focused on the long-term objective of reflecting the demographics of the population.

##### **3. ASSESSMENT OF CURRENT REALITY**

- 3.1 All human resources policies, procedures, practices and the working environment will be audited to identify barriers that adversely affect the employment opportunities and advancement of racially disadvantaged persons, women and persons with disabilities (human resources audit/survey).

##### **4. AFFIRMATIVE ACTION PLAN**

- 4.1 In order for the company to realise its employment equity goals, a detailed Affirmative Action Plan, which will include the results of the human resources audit and the demographic profile of the workforce - will be developed in consultation with the various employee constituencies.
- 4.2 The Affirmative Action Plan will address the following:
  - 4.2.1 Specifying the affirmative action measures to be instituted in order to:
    - (a) eliminate employment barriers against formerly racially disadvantaged persons, women and persons with disabilities;
    - (b) make available positions of employment to such persons, wherever reasonably possible;
    - (c) and to ensure that such persons are equitably represented in the various positions of employment.

- 4.2.2 Setting out the affirmative action objectives which the employer expects to achieve in the form of **numerical goals** to increase the representation of racially disadvantaged persons, women and persons with disabilities in each job category and grade in its employment.
- 4.2.3 Establishing a **timetable** for the achievement of the objectives in 4.2.2;
- 4.2.4 Setting out an internal procedure to monitor and evaluate the Affirmative Action Plan; and
- 4.2.5 Identifying a **senior employee** who will have overall responsibilities for the implementation of the **Affirmative Action Plan**.

## 5. **PREFERETIAL TREATMENT**

- 5.1 In filling positions in the company, the employer shall give preferential treatment to racially disadvantaged persons, women and persons with disabilities who are suitably qualified;
- 5.2 The company shall, wherever possible, train a Namibian citizen as the under study of every non-Namibian citizen employed.

## 6. **COMMUNICATION**

- 6.1 The company will implement this Policy with the full participation of employees and /or employees' organisation and structures.
- 6.2 This Policy and details of the Affirmative Action Plan will be communicated to all employees.

## 7. **ROLES AND RESPONSIBILITIES**

- 7.1 The ultimate responsibility for the successful implementation of the Policy resides with the CEO/Executive Director/Managing Director.

## 8. **MONITORING AND EVALUATION**

- 8.1 Consolidate monitoring reports on implementation of Affirmative Action Plans within the company will be submitted to the board and the CEO on a monthly/quarterly basis
- 8.2 The company will ensure that an appropriate Affirmative Action Report, as required by the Affirmative Action Act, be submitted.

**3.2 MODEL AFFIRMATIVE ACTION PLAN**

**AFFIRMATIVE ACTION PLAN FOR PERIOD: 20.... to 20....**

**MEASURES TO ELIMINATE BARRIERS IDENTIFIED WITHIN THE COMPANY**

Strategies	Objectives	Action Steps	Target Group	Expected Outcome/Performance Indicators	Responsible Personnel	TIME FRAME		
						YR	YR	YR

**Footnote:** Indicate the strategies that should be followed to eliminate the employment barriers within the company. This schedule should be completed following the information completed in Table 8.



## AFFIRMATIVE ACTION PLAN FOR PERIOD: 20.... to 20....

### ACTION PLANS/MEASURES TO ACHIEVE NUMERICAL GOALS FOR THE 3 YEAR AFFIRMATIVE ACTION PLAN

Strategies	Objectives	Action Steps	Target Group	Expected Outcome/Performance Indicators	Responsible Personnel	TIME FRAME		
						YR	YR	YR

**Footnote:**

Indicate in this template the training and development strategies which have been set to achieve the numerical targets for the 3 yr period. This should include the training and development of Namibian understudies for positions occupied by non-Namibian employees.

**3.3 MODEL EVALUATION OF AFFIRMATIVE ACTION PLAN FOR THE FURTHER REPORT (EEC 2 ANNEXURE “D”)**

**EVALUATION REPORT ON PROGRESS ACHIEVED IN THE 3 YEAR AFFIRMATIVE ACTION PLAN**

**1. INTRODUCTION**

Brief general statement on the progress made and any difficulties encountered during the year under review.

**2. NON-NAMIBIAN EMPLOYEES**

Provide a short statement regarding Namibian understudies for non-Namibian employees, if such exist in the company. Any changes in the situation of non-Namibian citizens appointed by the company should be explained. Comment on progress made with the training and development programmes of Namibian understudies.

**3. STATISTICAL REPORT-TABLES (Annexure ‘B’)**

When discussing progress made in achieving the numerical goals of the Affirmative Action plan for the year under consideration in the different categories, the relevant tables should be taken into consideration in order to arrive at an accurate evaluation of the real situation.

**4. DESIGNATED GROUPS**

**4.1 Racially Disadvantaged**

Specify progress made in this category of employees.

**4.2 Women**

Specify progress made in this category of employees.

**4.3 Persons with Disabilities**

Specify progress made in this category of employees.

**5. TRAINING AND DEVELOPMENT**

Specify progress made in training and development of designated group employees.

**6. AFFRMATIVE ACTION BUDGET**

If the company has a separate budget for affirmative action, indicate how it was spent.

**7. CONSULTATION**

Details on nature of consultations held.

.....  
**MANAGING DIRECTOR**

.....  
**HUMAN RESOURCES MANAGER**

## PART IV

### 4. FORMS

#### 4.1 General Information

The forms to follow hereinafter are the forms that the Employment Equity Commission prescribes to be used to prepare and submit the Affirmative Action plan. Should any of the forms lack space, kindly continue on a separate page. Please refer to the form which is expanded on that page, as well as to the paragraph of the form where applicable. Particular attention should be given to heed footnotes where these appear on forms. It is important to note that Form EEC1 and Form EEC2, together with their Annexures, represent the First Affirmative Action Report and the Further Affirmative Action Report, respectively. The Annexures should be carefully compiled and should appear in the same sequence as indicated on the Report Forms.

#### 4.2. List of Forms

- |     |                     |   |  |
|-----|---------------------|---|--|
| 1.  | EEC 1               | - | First Affirmative Action Report              |
| 2.  | Annexure A, Table 1 | - | Non-Namibian Employees and Understudies      |
| 3.  | Table 2             | - | Namibian Understudy Categories and Groups    |
| 4.  | Annexure B          | - | First Statistical Report                     |
| 5.  | Table 1             | - | Workforce Profile                            |
| 6.  | Table 2             | - | Recruitment                                  |
| 7.  | Table 3             | - | Promotion                                    |
| 8.  | Table 4             | - | Termination                                  |
| 9.  | Table 5             | - | Termination categories                       |
| 10. | Table 6             | - | Training                                     |
| 11. | Table 7             | - | Consultation                                 |
| 12. | Table 8             | - | Employment practices                         |
| 13. | Table 9(a)          | - | Numerical goals for first year               |
| 14. | Table 9(b)          | - | Numerical goals for second year              |
| 15. | Table 9(c)          | - | Numerical goals for third year               |
| 16. | Table 9(d)          | - | Envisaged new Workforce Profile              |
| 17. | Table 10            | - | Resources                                    |
| 18. | Table 11(a)         | - | Salary Scales                                |
| 19. | Table 11(b)         | - | Salary Scales                                |
| 20. | Table 11(c)         | - | Salary Scales                                |
| 21. | Form EEC 2          | - | Further Affirmative Action Report            |
| 22. | Annexure A, Table 1 | - | Non-Namibian Employees and Understudies      |
| 23. | Table 2             | - | Namibian Understudy Categories and Groups    |
| 24. | Table 3             | - | Namibian Understudy Appointment and Training |
| 25. | Annexure B          | - | Further Statistical Report                   |
| 26. | Table 1             | - | Workforce Profile                            |
| 27. | Table 2             | - | Recruitment                                  |
| 28. | Table 3             | - | Promotion                                    |
| 29. | Table 4             | - | Termination                                  |
| 30. | Table 5             | - | Termination categories                       |

- 31. Table 6 - Training
- 32. Table 7 - Consultation
- 33. Table 8 - Employment practices
- 34. Table 9(a) - Numerical goals for first year
- 35. Table 9(b) - Numerical goals for second year
- 36. Table 9(c) - Numerical goals for third year
- 37. Table 9(d) - Envisaged new Workforce Profile
- 38. Table 10 - Resources
- 39. Table 11(a) - Salary Scales
- 40. Table 11(b) - Salary Scales
- 41. Table 11(c) - Salary Scales
- 42. Form EEC 3 - Application for Exemption to Train a Namibian Understudy
- 43. Form EEC 4 - Exemption in Terms of Section 19.(4) of Act No. 29 of 1998
- 44. Form EEC 5 - Application to be Constituted as a Single Relevant Employer
- 45. Form EEC 6 - Order: Single Relevant Employer
- 46. Form EEC 7 - Labour Court: Notice of Appeal in terms of Section 21.(4)
- 47. Form EEC 8 - Notice of Dispute
- 48. Form EEC 9 - Application for Legal Assistance
- 49. Form EEC 10 - Notice of Change of Employer Status
- 50. Form EEC 11 - Certificate of Appointment
- 51. Form EEC 12 - Objection Against a Review Officer
- 52. Form EEC 13 - Application for Search Warrant
- 53. Form EEC 14 - Search Warrant
- 54. Form EEC 15 - Review Panel Appointment
- 55. Form EEC 16 - Summons to Appear Before a Review Panel
- 56. Form EEC 17 - Final Order
- 57. Form EEC 18 - Affirmative Action Compliance Certificate

**REPUBLIC OF NAMIBIA  
EMPLOYMENT EQUITY COMMISSION  
AFFIRMATIVE ACTION (EMPLOYMENT) ACT, 1998**

**FIRST AFFIRMATIVE ACTION REPORT**  
(Sections 27.(1) & 28.(1))

The Commissioner: Employment Equity Commission  
Private Bag 19005  
Khomasdal  
Windhoek

This is the First Affirmative Action Report of:

\_\_\_\_\_  
**(Name of relevant employer/single employer)**

Attached hereto are the following documents:

- 1 The names of the non-Namibian employees as well as their understudies as Annexure "A".  
(Prescribed form)
- 2 The statistical report referred to in section 25.(1)(c) as Annexure "B".
- 3 The affirmative action plan prepared in terms of section 23. as Annexure "C".
- 4 The summary of affirmative action measures as set out in section 28.(1)(c) as Annexure "D".
- 5 All other relevant records and/or documentation used to compile this report as annexures  
\_\_\_\_\_ (Specify). (Only documentation directly linked to the affirmative action  
plan, such as minutes of consultative meetings, should be included.)

I certify that the documents and the contents are correct.

\_\_\_\_\_  
**(Full names of Chief Executive Officer)**

\_\_\_\_\_  
**(Signature)**

\_\_\_\_\_  
**(Date)**

**Table 1: Non-Namibian Employees and Understudies** (supply particulars of Non-Namibian employees and Names of Namibian Understudies)

No.	Non-Namibian employee (Full names)	Position held	Work Permit number	Passport Number

**Footnotes:**

1. Continue on separate paper if needed. 2. If exemption was obtained in terms of section 19(4), attach copies of the certificates. 3. It is permissible to have more than one under study for each non-Namibian employee.



REPUBLIC OF NAMIBIA  
EMPLOYMENT EQUITY COMMISSION  
AFFIRMATIVE ACTION (EMPLOYMENT) ACT, 1998

FIRST STATISTICAL REPORT

(Section 25.)

Part 1: Employer Details

Name of Relevant Employer: \_\_\_\_\_

Address:

Physical: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Postal: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone number: \_\_\_\_\_

Fax : \_\_\_\_\_

E-mail address : \_\_\_\_\_

Organ of state: \_\_\_\_\_ Yes \_\_\_\_\_ No

Are you voluntarily complying with this Act as set out in section 22? \_\_\_\_\_ Yes \_\_\_\_\_ No

(Employers employing the same number or more employees, than the prescribed threshold for relevant employers determined by the Minister of Labour should answer “no” to the question)



**Table 1: Workforce Profile** (report the total number of employees)

Job Category	Racially disadvantaged		Racially advantaged		Persons with disabilities		Non-Namibian(s)		Total	
	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women
Executive Directors										
Senior Management										
Middle Management										
Specialised/skilled/senior supervisory										
Skilled										
Semi-skilled										
Unskilled										
<b>Total permanent</b>										
Casual/temporary and seasonal										
<b>Total</b>										

**Footnotes:**

1. The figures for this table must reflect the most recent actual employment situation.
2. Part-time employees, must be included under the relevant permanent, or casual/temporary/seasonal, category, as the case may be.
3. Where there are no employees in any category and column this must be indicated by inserting a zero "0" symbol.
4. Non-Namibians should only be indicated in the relevant column and should not to be included in other columns as well.









**Table 6: Training** (report the total number of employees that received training during the twelve months preceding this report)

Job Category	Racially disadvantaged		Racially advantaged		Persons with disabilities		Non-Namibian(s)		Total	
	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women
Executive Directors										
Senior Management										
Middle Management										
Specialised/skilled/senior supervisory										
Skilled										
Semi-skilled										
Unskilled										
<b>Total permanent</b>										
Casual/temporary and seasonal										
<b>Total</b>										

**Footnote:**

1. Where an employee has attended more than one training course or event during the period concerned, training for that individual must only be indicated once.

**Table 7: Consultation**

	Yes	No
Affirmative Action Consultative Committee		
Have committee members been appointed/elected by other employees?		
Trade union*		
Employees from designated groups		
Employees who are not from designated groups		
Other (please specify)		

\* Indicate which union consulted.

How regularly do you meet the stakeholders mentioned in Table 7?

Weekly	Monthly	Quarterly	Yearly	Other
--------	---------	-----------	--------	-------

**Footnote:**

1. Signed minutes of the consultative meetings must be included as an annexure to the report.

**Table 8: Employment practices** – section 25.(1)(b) (indicate in which categories of employment practices, **barriers** to employment equity were identified)

Categories of employment practices	Yes	No	If Yes, specify
Recruitment procedure			
Advertising positions			
Selection criteria			
Appointments			
Job classification and grading			
Remuneration and benefits			
Terms and conditions of employment			
Job assignments			
Work environment and facilities			
Training and development			
Performance and evaluation systems			
Promotions			
Transfers			
Demotions			
Succession and experience planning			
Disciplinary measures			
Dismissals			
Other (please specify)			

**Footnotes:**

1. Continue on separate page if the space in the 4th column is insufficient to describe the identified shortcomings.
2. Measures to rectify the shortcomings must be indicated separately as part of the Affirmative Action Plan.



**Table 9 (a): Numerical goals for first year (20...)**

<b>Job Category</b>	<b>Racially disadvantaged</b>		<b>Racially advantaged</b>	<b>Persons with disabilities</b>		<b>Total</b>	
	Men	Women	Women	Men	Women	Men	Women
Executive Directors							
Senior Management							
Middle Management							
Specialised/skilled/senior supervisory							
Skilled							
Semi-skilled							
Unskilled							
<b>Total permanent</b>							
Casual/temporary and seasonal							
<b>Total</b>							

**Footnotes:**

1. Indicate the numerical goals you have set for the end of the first year of your current Affirmative Action Plan.
2. Only specify envisaged increases for designated group job categories, not total workforce figures.

**Table 9 (b): Numerical goals for second year (20...)**

<b>Job Category</b>	<b>Racially disadvantaged</b>		<b>Racially advantaged</b>	<b>Persons with disabilities</b>		<b>Total</b>	
	Men	Women	Women	Men	Women	Men	Women
Executive Directors							
Senior Management							
Middle Management							
Specialised/skilled/senior supervisory							
Skilled							
Semi-skilled							
Unskilled							
<b>Total permanent</b>							
Casual/temporary and seasonal							
<b>Total</b>							

**Footnotes:**

1. Indicate the numerical goals you have set for the end of the second year of your current Affirmative Action Plan.
2. Only specify envisaged increases for designated group job categories, not total workforce figures.
3. The numerical goals for the second year should be cumulative and include the figures mentioned for the first year (Table 9(a)).

**Table 9 (c): Numerical goals for third year (20...)**

<b>Job Category</b>	<b>Racially disadvantaged</b>		<b>Racially advantaged</b>	<b>Persons with disabilities</b>		<b>Total</b>	
	Men	Women	Women	Men	Women	Men	Women
Executive Directors							
Senior Management							
Middle Management							
Specialised/skilled/senior supervisory							
Skilled							
Semi-skilled							
Unskilled							
<b>Total permanent</b>							
Casual/temporary and seasonal							
<b>Total</b>							

**Footnotes:**

1. Indicate the numerical goals you have set for the end of the third year of your current Affirmative Action Plan.
2. Only specify envisaged increases for designated group job categories, not total workforce figures.
3. The numerical goals for the third year should be cumulative and include the figures mentioned for the first and second year (Tables 9(a) and 9(b)).

**Table 9 (d): Envisaged new Workforce Profile**

<b>Job Category</b>	<b>Racially disadvantaged</b>		<b>Racially Advantaged</b>		<b>Persons with disabilities</b>		<b>Non-Namibian(s)</b>		<b>Total</b>	
	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women
Executive Directors										
Senior Management										
Middle Management										
Specialised/skilled/senior supervisory										
Skilled										
Semi-skilled										
Unskilled										
<b>Total permanent</b>										
Casual/temporary and seasonal										
<b>Total</b>										

**Footnotes:**

1. Indicate the total number of employees envisaged at the end of the third year in all categories for both designated and non-designated groups, based on the numerical goals you have set for your current three year Affirmative Action Plan.

**Table 10: Resources** (please indicate what resources have been allocated to the implementation of affirmative action)

<b>Allocation of resources</b>	<b>Yes</b>	<b>No</b>
Appointed a senior employee to manage the implementation		
Allocate a budget to support the implementation goals of affirmative action		
Time off for affirmative action consultative committee to meet on a regular basis		
Other (please specify)		

**Table 11 (a): Salary Scales** (indicate the different basic salary scales and benefits for the racially disadvantaged group).

Job Category	Annual salary scale	Actual average annual remuneration	Benefits (specify)	Racially disadvantaged	
				Men	Women
Executive Directors					
Senior Management					
Middle Management					
Specialised/Skilled/senior supervisory					
Skilled					
Semi-skilled					
Unskilled					
Casual / temporary and seasonal					
<b>Total</b>					

**Footnotes:**

1. Salary scales should reflect the minimum and maximum basic salaries paid for the different categories.
2. Benefits such as medical and, pension, etc., can be indicated on a separate page and should be depicted in descriptive terms, not in figures or monetary values.
3. Under the Column Racially Disadvantaged, indicate the number of employees in each category.

**Table 11 (b): Salary Scales** (indicate the different basic salary scales and benefits for the racially advantaged group).

Job Category	Annual salary scale	Actual average annual remuneration	Benefits (specify)	Racially advantaged	
				Men	Women
Executive Directors					
Senior Management					
Middle Management					
Specialised/skilled/senior supervisory					
Skilled					
Semi-skilled					
Unskilled					
Casual / temporary and seasonal					
<b>Total</b>					

**Footnotes:**

1. Salary scales should reflect the minimum and maximum salaries paid for the different categories.
2. Benefits such as medical and, pension, etc., can be indicated on a separate page and should be depicted in descriptive terms, not in figures or monetary values.
3. Under the Column Racially Advantaged, indicate the number of employees in each category.

**Table 11 (c): Salary Scales** (indicate the different basic salary scales and benefits for persons with disabilities).

Job Category	Annual salary scale	Actual average annual remuneration	Benefits (specify)	Persons with disabilities	
				Men	Women
Executive Directors					
Senior Management					
Middle Management					
Specialised/skilled/senior supervisory					
Skilled					
Semi-skilled					
Unskilled					
Casual / temporary and seasonal					
<b>Total</b>					

**Footnotes:**

1. Salary scales should reflect the minimum and maximum salaries paid for the different categories.
2. Benefits such as medical and, pension, etc., can be indicated on a separate page and should be depicted in descriptive terms, not in figures or monetary values.
3. Under the Column Persons with Disabilities, indicate the number of employees in each category.



**REPUBLIC OF NAMIBIA  
EMPLOYMENT EQUITY COMMISSION  
AFFIRMATIVE ACTION (EMPLOYMENT) ACT, 1998**

**FURTHER AFFIRMATIVE ACTION REPORT  
(Sections 27.(2) & 28.(2))**

**The Commissioner: Employment Equity Commission**

Private Bag 19005  
Khomasdal  
Windhoek

This is the Further Affirmative Action Report of:

\_\_\_\_\_  
**(Name of relevant employer/single employer)**

Attached hereto are the following documents:

1. The names of the non-Namibian employees as well as their under studies as Annexure "A".  
(Prescribed form)
2. The statistical report referred to in section 25.(1)(c) as Annexure "B".
3. One of the following: (as Annexure "C")
  - 3.1. The affirmative action plan approved as contemplated in section 32.(5), or
  - 3.2. An amended affirmative action plan referred to in section 33.(1)(a) or (b), or
  - 3.3. A proposed amended affirmative action plan referred to in section 33.(1)(c).
4. An evaluation of the affirmative action plan implemented during the immediately preceding period as Annexure "D".
5. A statement of the specific affirmative action measures which are proposed to remedy any deficiency identified during the preceding period, as referred to in section 28.(2)(d), as Annexure "E" (if necessary).
6. The summary of affirmative action measures for the ensuing reporting period, as set out in section 28.(2)(e) as Annexure "F".
7. All other relevant records and/or documentation used to compile this report as Annexures \_\_\_\_\_ (Specify). (Only documentation directly linked to the affirmative action plan, such as minutes of consultative meetings, should be included.)
8. Documents and/or information requested by the Commission as Annexures \_\_\_\_\_ (Specify).

I certify that the documents and the contents are correct.

\_\_\_\_\_  
**(Full names of Chief Executive Officer)**

\_\_\_\_\_  
**(Signature)**

\_\_\_\_\_  
**(Date)**

**Table 1: Non-Namibian Employees and Understudies** (supply particulars of Non-Namibian employees and Names of Namibian Understudies)

No.	Non-Namibian employee (Full names)	Position held	Work Permit number	Passport Number

**Footnotes:**

1. Continue on separate paper if needed. 2. If exemption was obtained in terms of section 19.(4), attach copies of the certificates. 3. It is permissible to have more than one under study for each non-Namibian employee.







**REPUBLIC OF NAMIBIA  
EMPLOYMENT EQUITY COMMISSION  
AFFIRMATIVE ACTION (EMPLOYMENT) ACT, 1998**

**FURTHER STATISTICAL REPORT  
(Section 25. and Section 28.(2)(a))**

**Part 1: Employer Details**

**Name of Relevant Employer:** \_\_\_\_\_

**Address:**

**Physical:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Postal:** \_\_\_\_\_

\_\_\_\_\_

**Telephone number :** \_\_\_\_\_

**Fax :** \_\_\_\_\_

**E-mail address :** \_\_\_\_\_

Organ of state: \_\_\_\_\_ Yes \_\_\_\_\_ No

Are you voluntarily complying with this Act as set out in section 22? \_\_\_\_\_ Yes \_\_\_\_\_ No  
(Employers employing the same number or more employees than the prescribed threshold for relevant employers determined by the Minister of Labour should answer “no” to the question.)

**Part 2 : Progress Report**

2.1 Reporting period: From \_\_\_\_\_ to \_\_\_\_\_

2.2 How regularly do you monitor progress on the implementation of the affirmative action plan:

Weekly	Monthly	Quarterly	Yearly	Other
--------	---------	-----------	--------	-------

2.3 Did you achieve the numerical goals as set out in your affirmative action plan for this period? Yes \_\_\_\_\_ No \_\_\_\_\_

2.4 Did you achieve the affirmative action objectives as set out in your affirmative action plan for this period: Yes \_\_\_\_\_ No \_\_\_\_\_

2.5 If not, what obstacles did you experience?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2.6 If yes, what factors promoted the accomplishment of your goals and objectives?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Table 1: Workforce Profile** (report the total number of employees)

Job Category	Racially disadvantaged		Racially advantaged		Persons with disabilities		Non-Namibian(s)		Total	
	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women
Executive Directors										
Senior Management										
Middle Management										
Specialised/skilled/senior supervisory										
Skilled										
Semi-skilled										
Unskilled										
<b>Total permanent</b>										
Casual/temporary and seasonal										
<b>Total</b>										

**Footnotes:**

1. The figures for this table must reflect the most recent actual employment situation.
2. Part-time employees, must be included under the relevant permanent, or casual/temporary/seasonal, category, as the case may be.
3. Where there are no employees in any category and column this must be indicated by inserting a zero "0" symbol.
4. Non-Namibians should only be indicated in the relevant column and should not to be included in other columns as well.











**Table 6: Training** (report the total number of employees that received training during the twelve months preceding this report)

Job Category	Racially disadvantaged		Racially advantaged		Persons with disabilities		Non-Namibian(s)		Total	
	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women
Executive Directors										
Senior Management										
Middle Management										
Specialised/skilled/senior supervisory										
Skilled										
Semi-skilled										
Unskilled										
<b>Total permanent</b>										
Casual/temporary and seasonal										
<b>Total</b>										

**Footnote:**

1. Where an employee has attended more than one training course or event during the period concerned, training for that individual must only be indicated once.

**Table 7: Consultation**

	Yes	No
Affirmative Action Consultative Committee		
Have committee members been appointed/elected by other employees?		
Trade union*		
Employees from designated groups		
Employees who are not from designated groups		
Other (please specify)		

\* Indicate which union consulted.

How regularly do you meet the stakeholders mentioned in Table 7?

Weekly	Monthly	Quarterly	Yearly	Other
--------	---------	-----------	--------	-------

**Footnote:**

1. Signed minutes of the consultative meetings must be included as an annexure to the report.

**Table 8: Employment practices** – section 25.(1)(b) (indicate in which categories of employment practices, **barriers** to employment equity were identified)

<b>Categories of employment practices</b>	<b>Yes</b>	<b>No</b>	<b>If Yes, specify</b>
Recruitment procedure			
Advertising positions			
Selection criteria			
Appointments			
Job classification and grading			
Remuneration and benefits			
Terms and conditions of employment			
Job assignments			
Work environment and facilities			
Training and development			
Performance and evaluation systems			
Promotions			
Transfers			
Demotions			
Succession and experience planning			
Disciplinary measures			
Dismissals			
Other (please specify)			

**Footnotes:**

1. Continue on separate page if the space in the 4th column is insufficient to describe the identified shortcomings.
2. Measures to rectify the shortcomings must be indicated separately as part of the Affirmative Action Plan.

**Table 9 (a): Numerical goals for first year (20...)**

<b>Job Category</b>	<b>Racially disadvantaged</b>		<b>Racially advantaged</b>	<b>Persons with disabilities</b>		<b>Total</b>	
	Men	Women	Women	Men	Women	Men	Women
Executive Directors							
Senior Management							
Middle Management							
Specialised/skilled/senior supervisory							
Skilled							
Semi-skilled							
Unskilled							
<b>Total permanent</b>							
Casual/temporary and seasonal							
<b>Total</b>							

**Footnotes:**

1. Indicate the numerical goals you have set for the end of the first year of your current Affirmative Action Plan.
2. Only specify envisaged increases for designated group job categories, not total workforce figures.

**Table 9 (b): Numerical goals for second year (20...)**

<b>Job Category</b>	<b>Racially disadvantaged</b>		<b>Racially advantaged</b>	<b>Persons with disabilities</b>		<b>Total</b>	
	Men	Women	Women	Men	Women	Men	Women
Executive Directors							
Senior Management							
Middle Management							
Specialised/skilled/senior supervisory							
Skilled							
Semi-skilled							
Unskilled							
<b>Total permanent</b>							
Casual/temporary and seasonal							
<b>Total</b>							

**Footnotes:**

1. Indicate the numerical goals you have set for the end of the second year of your current Affirmative Action Plan.
2. Only specify envisaged increases for designated group job categories, not total workforce figures.
3. The numerical goals for the second year should be cumulative and include the figures mentioned for the first year (Table 9(a)).



**Table 9 (c): Numerical goals for third year (20...)**

<b>Job Category</b>	<b>Racially disadvantaged</b>		<b>Racially advantaged</b>	<b>Persons with disabilities</b>		<b>Total</b>	
	Men	Women	Women	Men	Women	Men	Women
Executive Directors							
Senior Management							
Middle Management							
Specialised/skilled/senior supervisory							
Skilled							
Semi-skilled							
Unskilled							
<b>Total permanent</b>							
Casual/temporary and seasonal							
<b>Total</b>							

**Footnotes:**

1. Indicate the numerical goals you have set for the end of the third year of your current Affirmative Action Plan.
2. Only specify envisaged increases for designated group job categories, not total workforce figures.
3. The numerical goals for the third year should be cumulative and include the figures mentioned for the first and second year (Tables 9(a) and 9(b)).

**Table 9 (d): Envisaged new Workforce Profile**

<b>Job Category</b>	<b>Racially disadvantaged</b>		<b>Racially advantaged</b>		<b>Persons with disabilities</b>		<b>Non-Namibian(s)</b>		<b>Total</b>	
	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women
Executive Directors										
Senior Management										
Middle Management										
Specialised/skilled/senior supervisory										
Skilled										
Semi-skilled										
Unskilled										
<b>Total permanent</b>										
Casual/temporary and seasonal										
<b>Total</b>										

**Footnotes:**

1. Indicate the total number of employees envisaged at the end of the third year in all categories for both designated and non-designated groups, based on the numerical goals you have set for your current three year Affirmative Action Plan.

**Table 10: Resources** (please indicate what resources have been allocated to the implementation of affirmative action)

<b>Allocation of resources</b>	<b>Yes</b>	<b>No</b>
Appointed a senior employee to manage the implementation		
Allocate a budget to support the implementation goals of affirmative action		
Time off for affirmative action consultative committee to meet on a regular basis		
Other (please specify)		

**Table 11 (a): Salary Scales** (indicate the different basic salary scales and benefits for the racially disadvantaged group).

Job Category	Annual salary scale	Actual average annual remuneration	Benefits (specify)	Racially disadvantaged	
				Men	Women
Executive Directors					
Senior Management					
Middle Management					
Specialised/skilled/senior supervisory					
Skilled					
Semi-skilled					
Unskilled					
Casual / temporary and seasonal					
<b>Total</b>					

**Footnotes:**

1. Salary scales should reflect the minimum and maximum salaries paid for the different categories.
2. Benefits such as medical and, pension, etc., can be indicated on a separate page and should be depicted in descriptive terms, not in figures or monetary values.
3. Under the Column Racially Disadvantaged, indicate the number of employees in each category.

**Table 11 (b): Salary Scales** (indicate the different basic salary scales and benefits for the racially advantaged group).

Job Category	Annual salary scale	Actual average annual remuneration	Benefits (specify)	Racially advantaged	
				Men	Women
Executive Directors					
Senior Management					
Middle Management					
Specialised/skilled/senior supervisory					
Skilled					
Semi-skilled					
Unskilled					
Casual / temporary and seasonal					
<b>Total</b>					

**Footnotes:**

1. Salary scales should reflect the minimum and maximum salaries paid for the different categories.
2. Benefits such as medical and, pension, etc., can be indicated on a separate page and should be depicted in descriptive terms, not in figures or monetary values.
3. Under the Column Racially Advantaged, indicate the number of employees in each category.

**Table 11 (c): Salary Scales** (indicate the different basic salary scales and benefits for persons with disabilities).

Job Category	Annual salary scale	Actual average annual Remuneration	Benefits (specify)	Persons with disabilities	
				Men	Women
Executive Directors					
Senior Management					
Middle Management					
Specialised/skilled/senior supervisory					
Skilled					
Semi-skilled					
Unskilled					
Casual / temporary and seasonal					
<b>Total</b>					

**Footnotes:**

1. Salary scales should reflect the minimum and maximum basic salaries paid for the different categories.
2. Benefits such as medical and, pension, etc., can be indicated on a separate page and should be depicted in descriptive terms, not in figures or monetary values.
3. Under the Column Persons with Disabilities, indicate the number of employees in each category.

**Table 11 (d): Salary Scales** (indicate the different basic salary scales and benefits for Non-Namibians).

Job Category	Annual salary scale	Actual average annual Remuneration	Benefits (specify)	Non-Namibians	
				Men	Women
Executive Directors					
Senior Management					
Middle Management					
Specialised/skilled/senior supervisory					
Skilled					
Semi-skilled					
Unskilled					
Casual / temporary and seasonal					
<b>Total</b>					

**Footnotes:**

1. Salary scales should reflect the minimum and maximum basic salaries paid for the different categories.
2. Benefits such as medical and, pension, etc., can be indicated on a separate page and should be depicted in descriptive terms, not in figures or monetary values.
3. Under the Column Non-Namibians, indicate the number of employees in each category.

**REPUBLIC OF NAMIBIA  
EMPLOYMENT EQUITY COMMISSION  
AFFIRMATIVE ACTION (EMPLOYMENT) ACT, 1998**

The Minister of Labour  
Private Bag 19005  
Khomasdal  
Windhoek

**APPLICATION FOR EXEMPTION TO TRAIN A NAMIBIAN UNDER STUDY**

(Section 19.(4))

I, \_\_\_\_\_  
**(Full names, surname and position held)**

of \_\_\_\_\_  
**(Name of relevant employer)**

hereby apply:

1. to be exempted from the requirements to train a Namibian under study for:

\_\_\_\_\_  
**(Full Names of non Namibian employee) \***

**Documentary proof of the following must accompany every application:**

- a That the trade or profession of the non-Namibian employee to be employed is of such a specialised nature that it is not reasonably possible for the relevant employer to train in the work place a Namibian citizen as the under study,  
or;
- b that it is impractical for the relevant employer to train in the work place a Namibian citizen as the under study of such non-Namibian employee.

*Attach the documentation to the back of this form.*

**or**

2. for a renewal of the exemption certificate of:

\_\_\_\_\_  
**(Full names of non-Namibian employee\*)**

*Attach a copy of the first exemption certificate.*

*This application does not exempt the applicant from compliance with section 19(3) until the Minister has approved the exemption.*

\_\_\_\_\_  
**Relevant employer**

\_\_\_\_\_  
**Date**

*\*A separate form must be completed for every non-Namibian employee.*



**FOR OFFICIAL USE ONLY**

A. Exemption recommended/not recommended\*\*

\_\_\_\_\_  
**Minister of Higher Education, Training, and Employment Creation**

\_\_\_\_\_  
**Date**

Comments by the Minister of Higher Education, Training and Employment Creation:\*\*\* (if any)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. Exemption recommended/not recommended\*\*

\_\_\_\_\_  
**Chairperson: Labour Advisory Council**

\_\_\_\_\_  
**Date**

Comments by the Labour Advisory Council:\*\*\* (if any)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. Exemption approved/not approved.\*\*

\_\_\_\_\_  
**Minister of Labour**

\_\_\_\_\_  
**Date**

Comments by the Minister of Labour:\*\*\*(if any)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*\* Delete which is not applicable.

\*\*\* Continue on separate paper if necessary.

**REPUBLIC OF NAMIBIA  
EMPLOYMENT EQUITY COMMISSION  
AFFIRMATIVE ACTION (EMPLOYMENT) ACT, 1998**

**EXEMPTION IN TERMS OF SECTION 19.(4) OF ACT NO. 29 OF 1998**

I, \_\_\_\_\_  
**Minister of Labour, hereby exempt**

\_\_\_\_\_  
**(Name of applicant)**

from the requirements of section 19.(4) of the Act, to train a Namibian under study for

\_\_\_\_\_  
**(Non-Namibian employee)**

\_\_\_\_\_  
**Minister of Labour**

\_\_\_\_\_  
**Date**

**REPUBLIC OF NAMIBIA  
EMPLOYMENT EQUITY COMMISSION  
AFFIRMATIVE ACTION (EMPLOYMENT) ACT, 1998**

**APPLICATION TO BE CONSTITUTED AS A SINGLE RELEVANT EMPLOYER**  
(Section 21.)

The Commissioner: Employment Equity Commission  
Private Bag 19005  
Khomasdal  
Windhoek

I, \_\_\_\_\_  
(Full names and surname)

\_\_\_\_\_  
(Name of relevant employer/trade union/representative)\*

\_\_\_\_\_  
(Position held)

apply herewith that the following subsidiaries/branches/subdivisions:

Name of business	Number of employees	Physical address of each business unit	Postal address

Total number of employees:

*(Continue on a separate paper if space is inadequate)*

constitute a single relevant employer.

*\*(Mandate to apply such as Board Resolutions, must be attached to this form)*

\_\_\_\_\_  
(Signed)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Place)

**REPUBLIC OF NAMIBIA  
EMPLOYMENT EQUITY COMMISSION  
AFFIRMATIVE ACTION (EMPLOYMENT) ACT, 1998**

**ORDER: SINGLE RELEVANT EMPLOYER**  
(Section 21.)

It is hereby ordered that the following subsidiaries/branches/subdivisions

Name of business	Number of employees	Physical address of each business unit	Postal address

Total number of employees:

*(Continue on a separate paper if space is inadequate)*

constitute a single relevant employer.

\_\_\_\_\_  
**Commissioner**

\_\_\_\_\_  
**(Date)**

**Official Stamp**

**LABOUR COURT:  
NOTICE OF APPEAL IN TERMS OF SECTION 21.(4) OF THE AFFIRMATIVE  
ACTION (EMPLOYMENT) ACT, ACT NO. 29 OF 1998  
(Section 21.)**

In the matter between:

\_\_\_\_\_

**Applicant**

and

the Employment Equity Commission

**Respondent**

TAKE NOTICE that the Appellant gives notice of appeal against an order made by the Respondent dated \_\_\_\_\_ 20\_\_, which is as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(Continue on separate page if necessary, or attach copy of order)*

The grounds of appeal are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(Continue on separate page if necessary)*

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
**APPLICANT OR HIS OR HER LEGAL REPRESENTATIVE**

**REPUBLIC OF NAMIBIA  
EMPLOYMENT EQUITY COMMISSION  
AFFIRMATIVE ACTION (EMPLOYMENT) ACT, 1998**

The Commissioner: Employment Equity Commission  
Private Bag 19005  
Khomasdal  
Windhoek

**NOTICE OF DISPUTE**  
(Section 45.)

1. \_\_\_\_\_  
**(Name of employee)**

2. \_\_\_\_\_  
**(Name of representative\* - attach mandate)**

3. \_\_\_\_\_  
**(Name of relevant employer + address)**

4. Nature of dispute:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

*(Continue on separate paper if needed.)*

\*If appointed by employee.

**FOR OFFICIAL USE**

Dispute referred/not referred to the Labour Court in terms of section 25.(2) of the Act.

Comments by Commissioner:

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\_\_\_\_\_  
**Commissioner: Employment Equity Commission**

\_\_\_\_\_  
**Date**

**REPUBLIC OF NAMIBIA  
EMPLOYMENT EQUITY COMMISSION  
AFFIRMATIVE ACTION (EMPLOYMENT) ACT, 1998**

**APPLICATION FOR LEGAL ASSISTANCE**  
(Section 46.)

1. Surname of applicant: \_\_\_\_\_

First names: \_\_\_\_\_

Date of birth: \_\_\_\_\_ Identity number: \_\_\_\_\_

2. Residential address: \_\_\_\_\_

3. Postal address: \_\_\_\_\_

4. Marital status: \_\_\_\_\_ if married, state whether marriage is in community of property or by antenuptial contract \_\_\_\_\_

5. Particulars of dependants:

Full names:	Age:	Relationship:
_____	_____	_____
_____	_____	_____
_____	_____	_____

\*

6. Name and address of employer:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Occupation: \_\_\_\_\_

8. Gross income before any deduction in respect of any contribution to a pension fund or income tax N\$ \_\_\_\_\_

9. (a) Amount of monthly contribution to a pension fund: N\$ \_\_\_\_\_

(b) Name of pension fund: \_\_\_\_\_

(c) Is membership to such a fund compulsory in terms of the applicant's condition of service? \_\_\_\_\_

10. Amount of employees' tax deductible from applicant's salary: N\$ \_\_\_\_\_

11. (a) Is the applicant subject to any court order to pay any amount in respect of the maintenance of any other person? \_\_\_\_\_

(b) If so, give the name and address of each person in respect of whom the order is effective and the amount payable in each case:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. Description and value of immovable property owned by the applicant:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*



13. Description and value of movable property of the applicant (excluding any household furniture and any tools or implements used by the applicant for the purpose of his or her trade):

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\*

14. Names and amounts of outstanding claims, bills, investments, bonds or other securities in favour applicant, moneys in savings or other accounts with a bank or other financial institution:

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\*

15. Give particulars of the nature of applicant's affirmative action related dispute / complaint:

---

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\*

16. Give particulars of applicant's legal problem and the nature of legal assistance required:

---

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\*

17. Is the applicant covered by any insurance in respect of this matter? If so, give details:

---

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\*

I, \_\_\_\_\_

**(Name of applicant)**

- A. undertake to supply such further and additional information as may be required by the Commission in connection with my case;
- B. declare that all the particulars contained in this application are to the best of my knowledge, true and correct.

\_\_\_\_\_  
**(Signature of applicant)**

\_\_\_\_\_  
**(Date)**

*\*Use separate paper if needed.*

**FOR OFFICIAL USE**

- (1) Legal assistance recommended/not recommended.

\_\_\_\_\_  
**Commissioner: Employment Equity Commission**

\_\_\_\_\_  
**Date**

- (2) Application approved/refused.

\_\_\_\_\_  
**Minister of Labour**

\_\_\_\_\_  
**Date**

**REPUBLIC OF NAMIBIA**  
**EMPLOYMENT EQUITY COMMISSION**  
**AFFIRMATIVE ACTION (EMPLOYMENT) ACT, 1998**  
**NOTICE OF CHANGE OF EMPLOYER STATUS**  
 (Regulation 3)

The Commissioner: Employment Equity Commission  
 Private Bag 19005  
 Khomasdal  
 Windhoek

\_\_\_\_\_  
**(Name of employer/relevant employer)**

hereby gives notice of the fact that the number of employees employed by the above mentioned employer/relevant employer has changed.

The current number of employees are:  
 \_\_\_\_\_

The previous number of employees were:  
 \_\_\_\_\_

In respect of a relevant employer:  
 Name of review officer:

\_\_\_\_\_  
 The reason for the reduction in the number of employees are as follows:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*(Continue on separate paper if necessary)*

_____	_____
<b>(Full Names)</b>	<b>(Designation)</b>

\_\_\_\_\_  
**(Signature)**

\_\_\_\_\_  
**(Date)**

**REPUBLIC OF NAMIBIA  
EMPLOYMENT EQUITY COMMISSION  
AFFIRMATIVE ACTION (EMPLOYMENT) ACT, 1998**

**CERTIFICATE OF APPOINTMENT**  
(Section 30.)

In terms of Section 30. of Act No. 29 of 1998, you:

---

**(Name of Review Officer)**

is appointed as Review Officer responsible for reviewing the Affirmative Action Report of:

---

**(Name of Relevant Employer)**

---

**Commissioner**

**Official stamp**

**REPUBLIC OF NAMIBIA  
EMPLOYMENT EQUITY COMMISSION  
AFFIRMATIVE ACTION (EMPLOYMENT) ACT, 1998**

**OBJECTION AGAINST A REVIEW OFFICER**

The Commissioner: Employment Equity Commission  
Private Bag 19005  
Khomasdal  
Windhoek

1, \_\_\_\_\_  
**(Representative of relevant employer -  
Name of senior official)**

\_\_\_\_\_  
**(Name of relevant employer)**

object against

\_\_\_\_\_  
**(Name of Review Officer)**

The reasons are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(Continue on separate paper if necessary)*

\_\_\_\_\_  
**(Signature)**

\_\_\_\_\_  
**(Date)**



**REPUBLIC OF NAMIBIA  
EMPLOYMENT EQUITY COMMISSION  
AFFIRMATIVE ACTION (EMPLOYMENT) ACT, 1998**

**APPLICATION FOR SEARCH WARRANT  
(Section 31.)**

To the Magistrate –

I hereby apply for a warrant in terms of section 31.(5) of the Affirmative Action (Employment) Act to enter the following premises or land situated at:

\_\_\_\_\_

to search for records and/or documents which contain information relevant to the review of the affirmative action report of:

\_\_\_\_\_

In support of the application, the statement of:

\_\_\_\_\_

made under oath is attached hereto.

\_\_\_\_\_  
**Review officer – Employment Equity Commission**

\_\_\_\_\_  
**Date**

**Official Stamp**

**SEARCH WARRANT**  
(Section 31.(6), (7) & (8))

TO ANY OFFICER/ \_\_\_\_\_ \*

WHEREAS it appears to me on complaint made under oath that there are reasonable grounds for suspecting that there are at the premises or land situated at:

\_\_\_\_\_

records, as referred to in section 26. of the Act, or any other documents which contain information relevant to the review of the affirmative action report of:

\_\_\_\_\_

THIS IS THEREFORE to direct you to enter and search the said premises or land and to seize the said records and/or documents, and submit the said records and/or documents to the Employment Equity Commission.

The search may be executed during the hours of \_\_\_\_\_ to \_\_\_\_\_ \*\*

This warrant expires on \_\_\_\_\_ \*\*  
**(Date)**

\_\_\_\_\_  
**(Signature)**

\_\_\_\_\_  
**(Designation)**

\_\_\_\_\_  
**(Place)**

**(Official Stamp)**

\_\_\_\_\_  
**(Date)**

\*Section 31.(5)  
\*\* Section 31.(7)



**REPUBLIC OF NAMIBIA  
EMPLOYMENT EQUITY COMMISSION  
AFFIRMATIVE ACTION (EMPLOYMENT) ACT, 1998**

**REVIEW PANEL APPOINTMENT**  
(Section 35.)

In terms of section 35.(1) of Act No. 29 of 1998 the following persons are appointed to act as the review panel:

- 1 \_\_\_\_\_
- 2 \_\_\_\_\_
- 3 \_\_\_\_\_

to review the affirmative action report of:

\_\_\_\_\_

**(Name of relevant employer)**

The chairperson of the review panel will be:

\_\_\_\_\_

\_\_\_\_\_  
**Commissioner: Employment Equity Commission**

\_\_\_\_\_  
**Place**

\_\_\_\_\_  
**Date**

**Official stamp**

**REPUBLIC OF NAMIBIA  
EMPLOYMENT EQUITY COMMISSION  
AFFIRMATIVE ACTION (EMPLOYMENT) ACT, 1998**

**SUMMONS TO APPEAR BEFORE A REVIEW PANEL  
(Section 36.)**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Physical:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Postal:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In terms of Section 36. of Act No. 29 of 1998 you are hereby summonsed to appear before a review panel to give evidence in the review of the affirmative action report of:

\_\_\_\_\_  
**(Name of relevant employer)**

You are required to produce the following books, documents or records, or the case may be:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The review panel hearing will take place at \_\_\_\_\_ (venue) on \_\_\_\_\_ (date) at \_\_\_\_\_ (time). Failure to comply with this summons will render you liable to criminal prosecution.

\_\_\_\_\_  
**Commissioner: Employment Equity Commission**

\_\_\_\_\_  
**Date**

Copy Received

Proof of Service

\_\_\_\_\_  
**Signature of Recipient**

**Date:** \_\_\_\_\_  
**Time:** \_\_\_\_\_  
**Place:** \_\_\_\_\_

**REPUBLIC OF NAMIBIA  
EMPLOYMENT EQUITY COMMISSION  
AFFIRMATIVE ACTION (EMPLOYMENT) ACT, 1998**

**FINAL ORDER**  
(Section 39.)

The affirmative action report of:

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is hereby approved/disapproved\*.

The findings of the Review Panel are set out in Annexure "A".  
The decision of the Review Panel are set out in Annexure "B".\*\*  
The reasons for the decision of the Review Panel are set out in Annexure "C".

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**Chairperson of the Review Panel**

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**Place**

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**Date**

*\*Delete word not applicable*  
*\*\*Section 39.(3)(b) – delete if not applicable.*

**REPUBLIC OF NAMIBIA**  
**EMPLOYMENT EQUITY COMMISSION**  
**AFFIRMATIVE ACTION (EMPLOYMENT) ACT, 1998**  
**AFFIRMATIVE ACTION COMPLIANCE CERTIFICATE**  
 (Section 41.)

It is hereby certified that the Affirmative Action Plan of

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**(Name of relevant employer)**

dated: \_\_\_\_\_

complies with the requirements of the Affirmative Action (Employment) Act, 1998.

This certificate is valid until the date:

- (1) subject to sub-paragraph (3), that the Commission under section 32.(1)(a), 34.(3) or 39.(7) of the Act, as the case may be, issues to the relevant employer concerned an affirmative action compliance certificate for the very next affirmative action report following on the affirmative action report for which such compliance certificate had been issued;
- (2) subject to sub-paragraph (3), that the review panel makes under sections 39.(1)(b) or (3).(b) of the Act a final order disapproving the very next affirmative action report following on the affirmative action report for which such compliance certificate had been issued; or
- (3) that the relevant employer concerned fails to submit a further affirmative action report under the provisions of section 27.(2) of the Act.

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**Commissioner: Employment Equity Commission**

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**Date**

**Official Stamp**