

# AGREEMENT

## SAFETY AND SECURITY SECTORAL BARGAINING COUNCIL

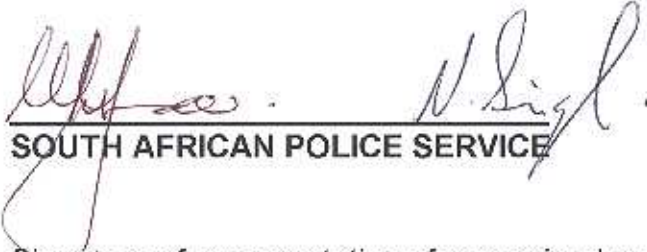
AGREEMENT NO	10/2001
DATE:	03 August 2001

### PROMOTION OF EMPLOYMENT EQUITY AND ELIMINATION OF UNFAIR DISCRIMINATION POLICY

1. The parties agree to the Promotion of Employment Equity and Elimination of Unfair Discrimination Policy, attached hereto.
2. The parties hereby further agree to revoke the following agreements:  
Agreement 4/97: Policy Document on Affirmative Action  
Agreement 1/98: Affirmative Action Implementation Plans  
Agreement 4/98: Terms of Reference of Implementation Task Team
3. This agreement binds the parties to the agreement and all employees who are not members of a registered trade union admitted to this Sectoral Bargaining Council, as well as all members of registered trade unions admitted to this Sectoral Bargaining Council who are not parties to this agreement.
4. This agreement shall be valid and be implemented as from 3 August 2001 until it is either amended or revoked in the Safety and Security Sectoral Bargaining Council.
5. This agreement shall be subject to the provisions of any applicable Act of Parliament, or secondary legislation promulgated in terms thereof.
6. The representatives of all parties concerned undertake to take every reasonable step necessary to ensure the implementation of this agreement.
7. Amendments to this agreement shall not be in force of effect unless they have been reduced in writing and signed by all parties concerned.
8. This agreement signed on behalf of the South African Police Service as Employer and the relevant employee organisations all signatories being duly authorised thereto at PRETORIA on the 1<sup>st</sup> day of June 2001.



Signature of representative of employer

  
SOUTH AFRICAN POLICE SERVICE

Signature of representative of recognised employee organisations.

  
SOUTH AFRICAN POLICE UNION

  
POLICE AND PRISONS CIVIL RIGHTS UNION  
DISCRIMINATION

# PROMOTION OF EMPLOYMENT EQUITY AND ELIMINATION OF UNFAIR DISCRIMINATION POLICY

## 1. Preamble

- 1.1 The foundation of democratic freedom in South Africa lies in the preservation of the values of human dignity, equality, freedom and social justice in a united, non-racial and non-sexist society where all people enjoy equal rights.
- 1.2 In achieving this, the consolidation of democracy in our country requires the eradication of social and economic inequalities, especially those that are systemic in nature, which were generated in the past and which disadvantaged the majority of our people.
- 1.3 In contributing to this objective, the SA Police Service must address systemic inequalities and unfair discrimination in practices, processes and attitudes, and transform its service and composition to meet the needs of the people of South Africa and to reflect the demographics of the country. The SA Police Service acknowledges its responsibility to promote equality and eliminate unfair discrimination as basic prerequisite to the effective delivery of policing services.
- 1.4 To redress prevailing inequities and disparities implies the advancement of designated groups who continue to endure the consequences. Designated groups refer to Black people, women and people with disabilities.

## 2. Purpose

The objectives of this policy are to give effect to the Constitution and related legislation to prevent and prohibit unfair discrimination and harassment, promote equal opportunity and fair treatment in employment, and prevent and prohibit hate speech.

## 3. Authorisation

Section 9 read with item 23(1) of Schedule 6 to the Constitution of the Republic of South Africa, 1996, the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000, and the Employment Equity Act, 1998, provides the regulatory framework and prescribes that the SA Police Service implement measures within the available resources that are aimed at the achievement of equality in all spheres of responsibility.

## 4. Scope of application

This policy is applicable to all employees appointed in terms of the South African Police Service Act, 1995 (Act no 68 of 1995), and the Public Service Act, 1994 (Act no 103 of 1994).

## 5. Policy provisions

### 5.1. Addressing fair discrimination

- 5.1.1 The Constitution makes provision for the limitation of rights in the Bill of Rights under specific circumstances to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors.
- 5.1.2 Where there are competing rights these must be weighed against each other to determine the extent to which one should enjoy precedence over another.
- 5.1.3 Regarding equality, all rights with regard thereto enjoy precedence over conflicting rights. It is thus not unfair discrimination to take affirmative action measures consistent with the purpose of the Employment Equity Act, or to distinguish, exclude or prefer any person on the basis of an





inherent requirement of a job. It is also fair to take measures designed to protect or advance persons or categories of persons disadvantaged by unfair discrimination.

## **5.2. Prevention and general prohibition of unfair discrimination**

5.2.1. The SA Police Service shall take all possible measures to promote equality and eliminate unfair discrimination.

5.2.2. No employee may unfairly discriminate directly or indirectly against any person on any one or more grounds, including race, gender, sex, pregnancy, marital status, **family responsibility**, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

5.2.3. Unfair discrimination is extended to include any other grounds which causes or perpetuates systemic disadvantage, undermines human dignity or adversely affects the equal enjoyment of a person's rights and freedoms – such as HIV/AIDS status, socio-economic status, nationality, family responsibility and family status

## **5.3. Prohibition of unfair discrimination on ground of race**

No employee may unfairly discriminate against any person on the ground of race, including but not limited to-

- the dissemination of any propaganda or idea which propounds the racial superiority or inferiority of any person, including incitement to or participation in any form of racial violence;
- engagement in any activity that is intended to promote or has the effect of promoting exclusivity based on race;
- the exclusion of persons of a particular race group aimed at maintaining exclusive control by a particular race group;
- the provision or continued provision of inferior services to any racial group compared to those of another racial group; or
- the denial of access to opportunities, including access to services or contractual opportunities for rendering services.

## **5.4. Prohibition of unfair discrimination on ground of gender**

No employee may unfairly discriminate against any person on the ground of gender, including but not limited to -

- any practice which impairs the dignity of a person and undermines equality between women and men;
- any policy or conduct that unfairly limits access of a person to financial or other resources;
- discrimination on the ground of pregnancy;
- limiting a person's access to social services or benefits;
- the denial of access to opportunities, including access to services or contractual opportunities for rendering services; or
- systemic inequality of access to opportunities to a person as a result of the sexual division of labour.

## **5.5. Prohibition of unfair discrimination on ground of disability**

No employee may unfairly discriminate against any person on the ground of disability, including but not limited to -

- denying or removing from any person who has a disability, any supporting or enabling facility necessary for their effective functioning;
- contravening the code of practice or regulations of the South African Bureau of Standards that govern environmental accessibility;
- failing to eliminate obstacles that unfairly limit or restrict persons with disabilities from enjoying equal opportunities or failing to take steps to reasonably accommodate the needs of such persons;
- any practice which impairs the dignity of a person with disability and undermines equality between person with disability and other persons;

- any policy or conduct that unfairly limits access of persons with disability to financial or other resources; or
- the denial of access to opportunities, including access to services or contractual opportunities for rendering services.

**5.6. Prohibition of hate speech and dissemination and publication of information that unfairly discriminates**

5.6.1 No employee may publish, propagate, advocate or communicate words based on one or more of the prohibited grounds against any person that could reasonably be construed to demonstrate a clear intention to-

- be hurtful,
- be harmful or to incite harm; or
- promote or propagate hatred.

5.6.2 No employee may disseminate or broadcast any information, or publish or display any advertisement or notice that could reasonably be construed or understood to demonstrate a clear intention to discriminate against any person.

**5.7. Prohibition of harassment**

5.7.1 Harassment of an employee is a form of unfair discrimination and is prohibited on any one, or a combination of grounds of unfair discrimination listed in the Constitution and other legislation.

5.7.2 Harassment means, amongst others, unwanted conduct which is persistent or serious and demeans, humiliates or creates a hostile or intimidating environment or is calculated to induce submission by actual or threatened adverse consequences and which is related to-

- sex, gender or sexual orientation; or
- a person's membership or presumed membership of a group identified by one or more of the prohibited grounds or a characteristic associated with such group.

**5.8. Promotion of equality**

5.8.1 All managers must take steps to promote equal opportunities and diversity in the workplace by eliminating unfair discrimination in all respects.

5.8.2 All commanders and managers must-

- develop awareness of fundamental rights to promote a climate of understanding, mutual respect and equality;
- take measures to develop and implement programmes **and create a supportive environment** to promote equity and diversity;
- develop action plans, where necessary, to address unfair discrimination, hate speech or harassment;
- provide assistance and advice and facilitate training on issues of equality;
- **ensure the development of programmes intended in paragraph 5.10.3**, and
- ensure the effectiveness of mechanisms to deal with complaints of unfair discrimination, hate speech or harassment.

5.8.3 All official languages shall be promoted and respected. Directives shall prescribe their use for official purposes. Means of communication shall take into account the languages spoken and levels of education/literacy of employees for whom such communication is intended.

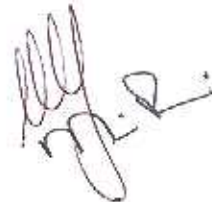
**5.8.4 All committees, panels and boards must, wherever reasonably possible, be representative.**

**5.9. Management of Employment Equity**

5.9.1 For the purpose of the implementation of the Employment Equity Act, Provinces and Divisions are designated as independent Business Units responsible for the development and implementation of Employment Equity Plans at all workplaces within their areas of responsibility, and for the achievement of reasonable progress in respect thereof.



- 5.9.2 Processes involved in the development and implementation of such plans must comply with the provisions of the Employment Equity Act. All employees must be made aware of and involved in processes and programmes related thereto, their objectives and intended outcomes.
- 5.9.3 Business Units shall conduct an analysis of practices, procedures and the working environment to identify prevailing employment barriers that adversely effect persons from designated groups. Comprehensive plans must be developed in consultation with all employees to address such barriers through the implementation of affirmative action measures.
- 5.9.4 On the basis of submissions made by the various Business Units a consolidated National Employment Equity Plan and Report for the SA Police Service shall be generated to reflect the fundamental issues generic and transversal to all Business Units, and submitted to the Department of Labour as prescribed. **These shall be accessible to all employees.**
- 5.9.5 No employee who exercises any right conferred by any Act may be discriminated against.
- 5.9.6 Whenever any contractor makes an offer to conclude an agreement with the SA Police Service for the furnishing of supplies or services or for the hiring or letting of anything, it must be ensured that a certificate or verified declaration is attached to that offer that such contractor has complied with the provisions of the Employment Equity Act.
- 5.10. Implementation of affirmative action measures**
- 5.10.1 Affirmative action measures shall be implemented in all workplaces to ensure that suitably qualified employees from designated groups have equal employment opportunities and are equitably represented in all occupational categories and levels in the workforce of the SA Police Service.
- 5.10.2 It shall be ensured that no requirements are included in any employment policy or practice designed to exclude any employee or group of employees on the basis of a lack of relevant experience. The inherent requirements of the job shall indicate the required skills, knowledge and competencies, and measures must be initiated to afford employees who lack such experience reasonable opportunity to meet those requirements.
- 5.10.3 Where it is determined that an employee from a designated group lacks the required skills, knowledge or competencies, whether on the basis of a defined career path or in the course of a performance enhancement process, a structured programme must be developed to create opportunities for such employees to acquire, within a reasonable time, such ability to do the job.**
- 5.10.4 In addition to individual development programmes that may be required to enhance the skills, knowledge or competencies of particular employees, various measures shall be implemented to promote specific affirmative action objectives and the achievement of numerical goals. Codes of Good Practice shall be developed from time to time in this regard.
- 5.11. Management of numerical goals**
- 5.11.1 Numerical goals must be developed and implemented to achieve the equitable representation of employees in all occupational categories and levels and to make the workforce reflective of the demographic of the country.
- 5.11.2 To ensure consistency and accuracy in the development of numerical goals, the National Commissioner shall provide national and provincial formulas to determine the proportionate representation of all categories of employees from both designated and non-designated groups.
- 5.11.3 The numerical goals must direct all employment policies and practices to ensure the achievement of employment equity objectives and affirmative action measures.
- 5.11.4 Where any employment practice is undertaken which does not support the numerical goals of a particular workplace, motivation therefore shall be provided to the National Commissioner.

Subsequent to any recruitment, promotion or appointment process, the Divisional Commissioner Career Management shall advise the National Commissioner of the extent to which such processes have supported greater representation in respective workplaces.

**6. Dispute resolution and compliance measures**

- 6.1 Prescribed dispute resolution procedures must be utilised for any dispute regarding the implementation or management of any programme, strategy or campaign undertaken in terms of these policy provisions.
- 6.2 Any form of unfair discrimination constitutes misconduct in terms of the Disciplinary Code.
- 6.3 Key employment equity outcomes must be incorporated in the performance contracts of all managers in the SA Police Service and integrated in the assessment of their performance. Managers who fail to implement adopted strategies or achieve reasonable progress regarding approved objectives and goals must be held accountable therefor.
- 6.4 Any employee who obstructs or fails to implement any process aimed at promoting the objectives of equality must be held accountable therefor.

**7. Implementation**

- 7.1 The application of this policy must be done in conjunction with the application of related employment practices and procedures.
- 7.2 The National Commissioner shall, on a regular basis, monitor and evaluate the effective implementation of and compliance with related policy provisions.
- 7.3 Related programmes must be reviewed on a regular basis to ensure their continued relevance and effectiveness.
- 7.4 A comprehensive communication and marketing strategy must be introduced in support of these policy provisions and related programmes.

