

Definitions of persons with disabilities in SA legislation

The norm of recognising persons with disabilities is set in the 2015 White Paper on the Rights of Persons with Disabilities, and reads as follows –

Persons with disabilities include those who have perceived and or actual physical, psychosocial, intellectual, neurological and/or sensory impairments which, as a result of various attitudinal, communication, physical and information barriers, are hindered in participating fully and effectively in society on an equal basis with others.

Below can be seen how the different definitions within SA legislation and policies translate into lack of recognition of the diversity of disability as well as the provision for the specific needs of the different types of impairments or disabilities.

1. United Nations Convention on the Rights of Persons with Disabilities

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. (Article 1)

2. White Paper on the Rights of Persons with Disabilities

Disability is imposed by society when a person with a physical, psychosocial, intellectual, neurological and/or sensory impairment is denied access to full participation in all aspects of life, and when society fails to uphold the rights and specific needs of individuals with impairments.

Persons with disabilities experience three main types of interrelated barriers:

- social (including high cost, lack of disability awareness, and communication difficulties);
- psychological (such as fear for personal safety); and
- structural (including infrastructure, operations and information).

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3. Social Assistance Act, 2001

A person is, subject to section 5, eligible for a disability grant, if he or she-

(a) has attained the prescribed age; and

(b) is owing to a physical or mental disability, unfit to obtain by virtue of any service, employment or profession the means needed to enable him or her to 40 provide for his or her maintenance.

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4. Employment Equity Act

People with disabilities includes people who have a long-term or recurring physical, mental, intellectual or sensory impairment which, in interaction with various barriers, may substantially limit their prospects of entry into, or advancement in, employment, and ‘persons with disabilities’ has a corresponding meaning.

5. PEPUDA

No definition of disability

6. Technical Assistance Guidelines (TAG)

Persons with disabilities include those who have perceived and or actual physical, psychosocial, intellectual, neurological and/or sensory impairments which, as a result of various attitudinal, communication, physical and information barriers, are hindered in participating fully and effectively in society on an equal basis with others.

7. Income Tax Act

“**disability**” means a moderate to severe limitation of a person’s ability to function or perform daily activities as a result of a physical, sensory, communication, intellectual or mental impairment, if the limitation— (a) has lasted or has a prognosis of lasting more than a year; and (b) is diagnosed by a duly registered medical practitioner in accordance with criteria prescribed by the Commissioner.

8. Education White Paper 6

References to disability but no definition

9. Basic Education Laws Amendment Bill (BELA)

No definition of or reference to disability

10. Skills Development Act

No definition of or reference to disability

11. Occupational Health and Safety Act 85 of 1993

No definition of or reference to disability

12. Labour Relations Act

No definition of or reference to disability