



# GOVERNMENT GAZETTE

OF THE

# REPUBLIC OF NAMIBIA

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## Government Notice

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### OFFICE OF THE PRIME MINISTER

No. 231

2007

### PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 6 of 2007: Affirmative Action (Employment) Amendment Act, 2007.

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**Act No. 6, 2007 AFFIRMATIVE ACTION (EMPLOYMENT)  
AMENDMENT ACT, 2007**

**EXPLANATORY NOTE:**

_____	Words underlined with a solid line indicate insertions in existing provisions.
[            ]	Words in bold type in square brackets indicate omissions from existing provisions.

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**ACT**

**To amend the Affirmative Action (Employment) Act, 1998, so as to provide for additional powers for the Employment Equity Commission; the delegation of powers to certain persons; the appointment of more than one review officer for a report; the continued submission of affirmative action plans; and to provide for matters incidental thereto.**

*(Signed by the President on 21 December 2007)*

**BE IT ENACTED** by the Parliament of the Republic of Namibia, as follows:

**Amendment of section 1 of Act No. 29 of 1998**

1. Section 1 of the Affirmative Action (Employment) Act, 1998 (Act No. 29 of 1998) (hereinafter referred to as the principal Act), is amended by the substitution for the definition of "Commission" of the following definition:

"'Commission' means the Employment Equity Commission established by section 3 [2], and includes, for the purposes of section 17(3), a review officer and a review panel;"

**Amendment of section 10 of Act No. 29 of 1998**

2. Section 10 of the principal Act is amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

"(2) (a) The Commissioner may delegate or assign any of his or her powers, duties or functions under this Act to the Deputy Commissioner or any other member of the Commission or any person employed by the Ministry, but shall not be divested of any power so delegated and may amend or withdraw any decision made by the Deputy Commissioner or such other member or person, as the case may be, in the exercise of any power so delegated."

**Amendment of section 23 of Act No. 29 of 1998**

3. Section 23 of the principal Act is amended by the insertion of the following subsection after subsection (2):

"(3) An affirmative action plan, referred to in subsection (1), shall, unless exemption is obtained from the Commission, be prepared every three years after the first submission of such affirmative action plan."

**Act No. 6, 2007 AFFIRMATIVE ACTION (EMPLOYMENT)  
AMENDMENT ACT, 2007**

**Amendment of section 24 of Act No. 29 of 1998**

4. Section 24 of the principal Act is amended by the substitution for subsection (1) of the following subsection:

“(1) For the purposes of developing **[and implementing]** an affirmative action plan or an affirmative action report, a relevant employer shall carry out consultations with the representatives of his or her or its employees and, where there is a trade union representing the interest of such employees, also with such trade union, concerning -

- (a) the preparation, implementation and revision of that employer’s affirmative action plan and affirmative action report;
- (b) the assistance of such representatives or trade union in communicating matters relating to the affirmative action plan and affirmative action report to such employer’s employees; and
- (c) the participation of such representatives or trade union in monitoring the affirmative action plan and affirmative action report.”.

**Amendment of section 30 of Act No. 29 of 1998**

5. Section 30 of the principal Act is amended by -

(a) the substitution for subsection (1) of the following subsection:

“(1) The Commission shall appoint for each affirmative action report submitted to it under section 27, from among the staff members in the Ministry made available for such purpose by the Permanent Secretary, a review officer or more than one review officer responsible for reviewing that report and making recommendations to the Commission in accordance with this Act.”;

(b) the insertion of the following subsection after subsection (3):

“(4) The Commissioner or any member of the Commission may exercise the powers or perform the functions of a review officer set out in terms of section 31 of this Act.”.

**Amendment of section 44 of Act No. 29 of 1998**

6. Section 44 of the principal Act is substituted for the following section:

“44. Any person exercising a power or performing a function in terms of this Act [The Minister, Permanent Secretary, Commissioner, a member of the Commission, a review officer, or a person referred to in section 13] shall not personally be liable in respect of anything done in good faith [bona fide] under this Act.”.

**Amendment of section 45 of Act No. 29 of 1998**

7. Section 45 of the principal Act is amended by the substitution for subsection (1) of the following subsection:

