



**MINISTRY  
EMPLOYMENT & LABOUR  
REPUBLIC OF SOUTH AFRICA**

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**NATIONAL ASSEMBLY**

**WRITTEN REPLY**

**QUESTION NUMBER: 3986 [NW5239E]**

**3986 [★805]. Mr M G E Hendricks (Al Jama-Ah) to ask the Minister of Employment and Labour:**

When will the requirement to state one's race be removed from labour legislation and, where necessary, be limited to black and white only instead of stating 'coloured' and 'Indian'? NW5239E

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**REPLY:**

It is fundamental for all us to recall that all the painful injustices and inequalities of the past apartheid system were racially driven. In fact, race was a key determining factor in relation to how all resources and opportunities were distributed to the citizens of this country being its finances, education, employment, housing, energy, water, health, just to mention a few. Therefore, in order to protect the human rights to equality, human dignity and fair treatment, including access to equal opportunities in all spheres of life, section 9 of the Constitution is explicit that measures must be taken by enacting legislation to ensure that no person is directly or indirectly unfairly discriminated against based on any of the prohibited grounds listed, which are inclusive of race.

It is against this backdrop of section 9 of the Constitution, the 'Equality clause' that various legislation, in particular the Employment Equity Act, 1998 (EEA) was enacted. The primary purpose of the EEA is to promote equity through the elimination of unfair treatment and unfair discrimination in employment policies and practices;

and the implementation of affirmative action measures to redress the imbalance of the past suffered by the previously disadvantaged groups, that is black people; women of all racial groups; and persons with disabilities irrespective of their race and gender. In fact, the section 1 of the EEA defines black people as a generic term that means Africans; Coloureds and Indians. It is important to highlight that this definition and section 6(1) of the EEA, which lists all the prohibited grounds of unfair discrimination, inclusive of race has not been amended. In fact, it is crucial to note that these listed prohibited grounds of unfair discrimination in section 6(1) of the EEA mirrors those listed in section 9 of the Constitution. In context of the objectives of both section 9 and that of the EEA, if 'race' as a classification should be removed as a prohibited ground for unfair discrimination, amendments should be considered not only for the EEA, but for the Constitution; including other legislations that make reference to the race classifications.

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