



THE LAW AND MENTAL HEALTH AT WORK: KNOW YOUR RIGHTS

Navigating mental health issues at work can be challenging, but knowing your rights can make a big difference. South African law offers strong protections for employees dealing with mental health conditions, ensuring that you don't have to face unfair treatment or discrimination.

Navigating mental health challenges in the workplace can be overwhelming. The pressures of work, combined with the fear of stigma and discrimination, often prevent individuals from seeking the help they need. However, it's essential to know that South African law provides robust protections for employees dealing with mental health conditions. Understanding these legal rights can empower you to prioritise your well-being without fear of unfair treatment or discrimination.

YOUR LEGAL PROTECTIONS

In South Africa, everyone has the right to fair labour practices, as set out in [Section 23](#) of the Constitution. This includes protection against unfair discrimination. If you're dealing with a mental health condition, you're covered under these protections thanks to the Employment Equity Act (EEA), which forbids discrimination based on disability, [including mental health issues](#).

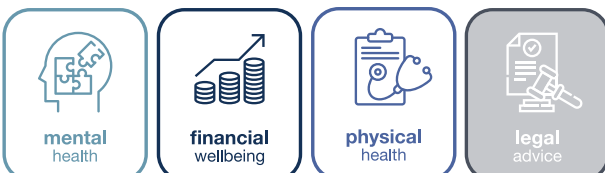
OHS legislation: According to recent updates in [occupational health and safety \(OHS\)](#) legislation, employers are required by law to create a work environment that's physically and mentally safe. This means addressing mental health concerns proactively rather than ignoring them.

WHAT ARE REASONABLE ACCOMMODATIONS?

Reasonable accommodation means making changes to the workplace to help employees with mental health conditions perform at their best. This could include:

- Flexible working hours to manage treatment or therapy
- Adjustments to job duties to better align with your capabilities
- Providing access to mental health resources like counselling

These accommodations are essential to ensuring you can [work effectively while managing your mental health](#).



*For confidential assistance on legal matters, contact your
EMPLOYEE WELLNESS PROGRAMME
on toll-free **0800 004 770**
SMS your name to 31581*

WHAT YOU CAN DO IF YOU'VE BEEN DISCRIMINATED AGAINST

Discrimination based on mental health is illegal. If you feel you're being unfairly treated because of your mental health condition, there are steps you can take:

1. **Document everything:** Keep a record of incidents, including dates, times, and any communications related to your treatment.
2. **Seek support:** Talk to your HR department or a trusted manager to address the issue internally.
3. **Get legal help:** If internal channels don't resolve the problem, consider reaching out to legal aid services or the South African Human Rights Commission (SAHRC) for assistance.

Employers must recognise and address mental health issues effectively. If your employer didn't foresee or respond to your mental distress, you might have a case for constructive dismissal.

WHAT EMPLOYERS NEED TO KNOW

For employers, this means actively creating a supportive work environment. Ignoring mental health can lead to decreased morale, lower productivity, and even legal trouble. Embracing a compassionate approach isn't just good practice – it's now a legal obligation.

The landscape of mental health in the workplace is evolving. Understanding your rights and knowing how to advocate for yourself is crucial. Employers, too, have a role in fostering a supportive and inclusive environment for everyone.

If you're dealing with mental health issues at work, don't hesitate to reach out for support. Your well-being matters, and you deserve to work in a space that respects and accommodates your needs.

References

- Mental illness, harassment and labour laws: some thoughts on harassment by employees suffering from mental illness [internet]. Moffat Maitele Ndou, LLB LLM Lecturer, Faculty of Law North-West University. Available from: https://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300005#:~:text=Where%20an%20employee%20has%20a,is%20aware%20of%20the%20disability.
- Section 23 of the Constitution of the Republic of South Africa, 1996.
- A legal perspective on mental health in the workplace [internet]. BizCommunity. Available from: [https://www.bizcommunity.com/article/a-legal-perspective-of-mental-health-in-the-workplace-012955a.](https://www.bizcommunity.com/article/a-legal-perspective-of-mental-health-in-the-workplace-012955a)

The information is shared on condition that readers will make their own determination, including seeking advice from a professional. E&OE.



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