
Media Statement

CLASSIFICATION OF PSYCHOLOGICAL TESTS BY THE PROFESSIONAL BOARD FOR PSYCHOLOGY, HEALTH PROFESSIONS COUNCIL OF SOUTH AFRICA

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For immediate release

Pretoria - The Health Professions Council of South Africa (HPCSA) has a responsibility to ensure that it protects the public and guides the professions. The Employment Equity Act was promulgated in 1998 and commenced operation on 01 December 1999. Section 8 of the Employment Equity Act provided that:

“Psychological testing and other similar assessments of an employee are prohibited unless the test or assessment being used -

- (a) has been scientifically shown to be valid and reliable;
- (b) can be applied fairly to employees; and
- (c) is not biased against any employee or group.”

The Employment Equity Act was amended in 2013 and published for general information on 16 January 2014. Section 4 of the Employment Equity Amendment Act, 2013 (Act No. 47 of 2013) amended section 8 of the Employment Equity Act by the addition of the following paragraph:

“(d) has been certified by the Health Professions Council of South Africa established by [section 2](#) of the Health Professions Act, 1974 (Act No. 56 of 1974), or any other body which may be authorised by law to certify those tests or assessments.”

Effectively, section 4 of the Employment Equity Amendment Act, 2013 added the fourth condition for the use of psychological testing or similar assessments on an employee; namely that Psychological testing and other similar assessments of an employee are prohibited unless the test or assessment being used

has been certified by the Health Professions Council of South Africa established by [section 2](#) of the Health Professions Act, 1974 (Act No. 56 of 1974).

The President of the Republic of South (“the President”) brought this amendment into operation by way of a Proclamation No. 50 as published under Government Gazette No. 37871 of 25 July 2014. The President determined, in the aforementioned Proclamation, 1 August 2014 as the date for the commencement of the operation of the aforementioned amendment.

The Association of Test Publishers was aggrieved by the President’s decision to determine the 1st of August 2014 for the commencement of the aforementioned amendment. The Association of Test Publishers was aggrieved by the introduction of the requirement that only psychological tests or similar assessments certified by the Health Professions Council of South Africa can be used by registered psychologists. Thus, the Association of Test Publishers approached the High Court, on application, for an order declaring as invalid and setting aside, the President’s decision in this regard.

Whilst this application was opposed by the President, the Minister of Health, and the Health Professions Council of South Africa, the High Court declared as invalid and set aside the President’s decision determining the 1st of August 2014 as the date for the commencement of the operation of section 4 of the Employment Equity Amendment Act, 2013. This, effectively means that, for now, psychological testing or similar assessment on an employee do not need to be certified by the Health Professions Council of South Africa.

The Professional Board for Psychology (“the Board”) has decided not to challenge the High Court’s decision in this regard.

The Health Professions Council of South Africa’s mandate and the Board’s responsibility remains one of Protecting the Public and Guiding the Profession, hence the need for psychological tests to be classified for use in the South African context. To this end, the Board has recently recommended to the Health Professions Council of South Africa the regulations for development, control, and use of psychological tests. These regulations deal with the classification of tests for use in the South African context and will be recommended to the Minister of Health for publication for comment. Members of the public will have an opportunity of commenting on these regulations before they are promulgated finally into law.

The Board also, and in terms regulation 2(f) of the Regulations defining the scope of the Profession of Psychology as published under Government Notice R993 in *Government Gazette* 31433 of 16 September 2008, publish a list of tests which have been classified by the Board for use by registered psychologists; this publication takes place as and when there are new psychological tests that have been classified by the Board. This is to ensure that only tests that have been classified by the Board as appropriate for use in the South African context are used.

About the Health Professions Council of South Africa (HPCSA)

The Health Professions Council of South Africa (HPCSA) also known as Council is a statutory body established under the Health Professions Act 56 of 1974. The HPCSA is committed to protecting the public and guiding the professions. The mission of the HPCSA is quality and equitable healthcare for all.

The HPCSA is mandated to regulate the health professions in the country in aspects pertaining to education, training and registration, professional conduct and ethical behaviour, ensuring continuing Professional Development (CPD), and fostering compliance with healthcare standards.

In order to safeguard the public and indirectly guiding the professions, registration in terms of the Act is a prerequisite for practising any of the health professions registrable with Council.

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