

## Caribbean Community (CARICOM) Secretariat

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### CARICOM MODEL LEGISLATION ON SEXUAL HARASSMENT

#### Explanatory Memorandum:

##### Long Title

The long title outlines the scope and objects of the model legislation, which are to provide remedies in respect of discrimination involving Sexual Harassment. The model deals with civil remedies and addresses the problem as a labour relations matter.

##### Short title:

As the short title suggests the model seeks to provide protection to persons who suffer discrimination arising from acts of sexual harassment.

##### Clause 2

The definitions of "*accommodation*", "*educational institution*", "*employment*" and "*supervisor*" indicate the areas in which the need for protection is perceived most important.

"*Fellow worker*" is also defined. The question as to the need for protection from acts of a fellow worker was extensively discussed at the legal workshop held in Trinidad, 9-12 April 1991. While it was recognised that in most cases, the problem could be dealt with by the employee who is being harassed, it was decided that the onus should be placed on an employer or supervisor to take action to ensure that the employee is protected and accordingly, **Clause 14** requires that, where appropriate directions be given to a respondent's employer for the purpose of inquiry into a complaint. In addition, **Clause 16 (1) (vii)** includes as a remedy, a requirement that an employer take action to ensure that harassment ceases.

**Subsection (2)** states the meaning of conduct of a sexual nature.

**Clause 3** deals with unlawful sexual harassment in employment.

**Subsection (1)** deals with acts of sexual harassment by an employer or supervisor, while **subsection (2)** deals with acts by a prospective employer. **Subsection (3)** provides that it is unlawful for an employee to harass sexually a fellow worker.

**Subsection (4)** describes the types of conduct which constitutes sexual harassment. Reference is made to unwelcome sexual advances or unwelcome requests for sexual favours as well as to other unwelcome conduct of a sexual nature.

Paragraphs (a) and (b) describe the consequences of such unwelcome conduct where a person is led to believe that any rejection of that conduct is likely to cause that person to suffer disadvantage in connection with employment

**Clause 4** deals with sexual harassment in education by a member of staff of the institution where the victim is a student or prospective student.

**Clause 5** deals with sexual harassment in relation to accommodation.

**Clause 6** outlines two options for the establishment of a Tribunal for the purpose of hearing complaints under the Act.

Option 1 provides for the establishment of a permanent Tribunal while

Option 2 allows the setting up of an *ad hoc* Tribunal. Individual states will decide which option is most suitable for their needs.

**Subsection (4)** provides that a complaint may be heard by one member of the Tribunal sitting alone if the parties to the complaint agree.

**Subsection (5)** provides that where there is agreement for a hearing by one member, the decision of that member shall be final.

**Subsection (6)** provides for a form of notice to the parties as to appointment of the *ad hoc* Tribunal.

**Clause 7** empowers the Minister to designate public officers for the purpose of investigating complaints and securing proper observance of the provisions of the Act.

**Subsection (2)** empowers the officer to enter a respondent's premises for the purpose of investigation.

**Subsection (3)** provides for the officer to be given a certificate of designation which should be produced on request on entry to any premises.

**(Subsection (4))** provides for the officer to be subject to the Tribunal's directions.)

**Clause 8** relates to complaints.

**Subsection (1)** requires the lodging of the complaint with (the Tribunal) or (the Permanent Secretary in the Ministry of Labour).

Persons who may lodge the complaint are described in paragraphs (a) and (b) and include a Trade Union.

**Subsection (2)** defines Trade Union as including an organisation of employees which is recognised or registered as a trade union within the meaning of labour legislation and any similar body.

**Clause 9** provides for inquiries by an authorised officer who is obliged to endeavour to settle matters by conciliation and may obtain information from such persons as the officer thinks fit **(subsection (2))** of may decide not to carry out an investigation or to discontinue an investigation in certain circumstances **(paragraphs (a) - (c) of subsection (3))**.

**Subsection (4)** requires the officer to notify the complainant in writing of any decision not to carry out an investigation or a decision to discontinue an investigation.

**Subsection (5)** - Two options are presented under which a complainant may, on being notified of the decision to discontinue or not to carry out an investigation, make a written request to the Tribunal or to the Minister for an inquiry to be conducted.

**Clause 10** deals with the power of the officer to obtain information and documents by notice in writing to a person who the authorised officer believes capable of giving the information.

**Subsection (2)** empowers the officer to take possession of, make copies of or retain any documents produced to that officer.

**Clause 11** provides for an officer to refer matters to the Tribunal where the officer thinks such matters cannot be settled by conciliation or has not succeeded in so settling them or is of the opinion that the matter is such that it warrants inquiry by the Tribunal.

**Subsection (2)** requires the officer to submit a written report to the Tribunal of any investigations carried out by the officer and of any resolution of matter by conciliation.

**Subsection (3)** empowers the Tribunal to endeavour to resolve a complaint by such means as it considers reasonable and the Tribunal is obliged to try for an amicable settlement. In this regard it has the power to adjourn to allow the parties to negotiate amicable arrangements.

**Clause 13** allows the Tribunal to take evidence on oath or affirmation.

**Subsection (2)** allows the receipt in evidence of proceedings in a court or before a Tribunal, the adoption of any findings, decisions or judgments in such proceedings, and also the receipt in evidence of an officer's report.

**Clause 14** empowers the Tribunal by written notice to direct the attendance of persons specified in subsection (2) at an inquiry.

**Subsection (3)** provides for the production of documents at an enquiry.

**Subsection (4)** requires the Tribunal to give each party at an inquiry reasonable opportunity to call, examine and cross-examine witnesses and to make submissions to the Tribunal.

**Clause 15** permits a party to an inquiry to have legal representation.

**Clause 16** sets out the power of the Tribunal to dismiss the complaint or to find in favour of the complainant. In the latter case, certain declarations may be included as specified in sub-paragraphs (i) - (vii). These include a requirement that the respondent should not repeat or should cease the offending conduct, and pay damages by way of compensation to the complainant.

**Subsection (3)** provides that in cases where payment of compensation is ordered, the sum payable may be recovered summarily as a civil debt.

**Subsection (4)** provides that a respondent who fails to comply with the Tribunal's determination is liable to contempt proceedings.

**Clause 17** provides for an inquiry to be held in private.

**Clause 18** empowers the Tribunal to prohibit publication of certain evidence or information.

**Clause 19** provides that an aggrieved party may appeal against the Tribunal's decision to (the Court of Appeal) or (a Judge in Chambers).

**Clause 20** provides that an act of sexual harassment under clauses 3, 4 or 5 is not a criminal offence.

**Clause 21** sets out offences in relation to an inquiry.

**Subsection (1)** sets out the penalty for failure to attend an inquiry.

**Subsection (2)** deals with failure to furnish information or produce documents.

**Subsection (3)** deals with failure of a witness at an inquiry to be sworn or make an affirmation or to answer a question asked by a person presiding at an inquiry.

**Subsection (4)** deals with offences such as interrupting proceedings, use of insulting language to a member of the Tribunal, unlawful publication of information, creating of a disturbance at an inquiry, supplying of false information or any acts which would constitute contempt of court.

**Clause 22** deals with the offence of victimisation.

**Subsection (2)** describes the circumstances in which a person shall be taken to commit an act of victimisation against a person who has made or proposes to make a complaint or bring proceedings against any person.

**Clause 23** prohibits the publication of particulars of a complaint otherwise than as set out in paragraphs (a) - (c).

**First Schedule** provides for the constitution and procedure of the permanent Tribunal.

## ARRANGEMENT OF SECTIONS

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## SCHEDULES

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## THE PROTECTION AGAINST SEXUAL HARASSMENT ACT

AN ACT to Provide remedies in respect of acts of discrimination involving sexual harassment.

### ENACTING CLAUSE

#### Short Title

1. This Act may be cited as the Protection against Sexual Harassment Act.

#### Interpretation

2. (i) In this Act -

"*accommodation*" includes residential and business accommodation;

"*complainant*" in relation to a complaint, means the person by whom or on whose behalf that complaint is lodged;

"*complaint*" means a complaint lodged under section 8 or a matter referred to the Tribunal for inquiry as a complaint pursuant to section 12;

"*educational institution*" means a school, college, university or other institution at which education or training is provided;

["*employee*" includes commission agent;]

"*employment*" includes part-time and temporary employment and work under a contract of services'

"*fellow worker*" in relation to an employee means another person who is employed by the employer of that first-mentioned employee;

"*functions*" include powers and duties;

"*respondent*" in relation to a complaint, means the person who is alleged to have done the act to which the complaint relates;

"*supervisor*" in relation to a person means a fellow worker who by virtue of the employment of that fellow worker is in a position of authority over that first-mentioned person.

(2) Any reference in this Act to conduct of a sexual nature in relation to a person includes a reference to the making, to or in the presence of, a person, of a statement of a sexual nature concerning that person, whether the statement is made orally or in writing.

### **Unlawful sexual harassment in employment**

3. (1) It is unlawful for an employer or supervisor of an employee to make it reasonably appear to an employee that the prospects or working conditions of that employee are contingent upon the employee's acceptance of sexual advances or toleration of sexual advances or persistent sexual suggestions or innuendo from, the employer or supervisor;

(2) It is unlawful for a prospective employer to make it reasonably appear to a person that -

(a) an offer of employment to that person; or

(b) the terms on which employment is so offered, is or are contingent on that person's acceptance of sexual advances or toleration of persistent sexual suggestions or innuendo from the prospective employer.

(3) It is unlawful for an employee to harass sexually a fellow worker.

(4) For the purposes of this section, a person shall be taken to harass sexually another person if the first-mentioned person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person, or engages in other unwelcome conduct of a sexual nature in relation to the other person, and -

(a) the other person has reasonable grounds for believing that a rejection of the advance, or refusal of the request or the taking of objection to the conduct would cause the other person to suffer disadvantage in any way in connection with the other person's employment or work or possible employment or possible work; or

(b) as a result of the other person's rejection of the advance, refusal of the request or taking of objection to the conduct, the other person suffers any form of disadvantage in connection with that other person's employment or work or possible employment or possible work.

### **Unlawful sexual harassment in education**

4. (1) It is unlawful for a person who is a member of staff of an education institution to harass sexually a person who is a student at that educational institution or is seeking admission to that educational institution as a student.

(2) For the purpose of this section, a person shall be taken to harass sexually another person if the first-mentioned person makes an unwelcome sexual advance or an unwelcome request for sexual favours, to the other person, or engages in other unwelcome conduct of a sexual nature in relation to the other person, and -

(a) the other person has reasonable grounds for believing that a rejection of the advance, a refusal of the request or the taking of objection to the conduct would disadvantage the other person in any way in connection with the other person's studies or the other person's application for admission to an educational institution as a student; or

(b) as a result of the other person's rejection of the advance, refusal of the request or the taking of objection to the conduct, the other person is disadvantaged in any way in connection with the other person's studies or the other person's application for admission to an educational institution as a student.

### **Unlawful sexual harassment in relation to accommodation**

5. It is unlawful for a person to make it reasonably appear to another person that

(1) the terms on which the first-mentioned person offers the other person accommodation;

- (2) the first-mentioned person's acceptance of the other person's application for accommodation;
- (3) the time of processing of the other person's application for accommodation, or the order of precedence of the other person or any list of applicants for that accommodation;
- (4) the other person's access or the extent of such access to any benefit connected with the accommodation;
- (5) the failure to evict the other person or to subject that other person to any other detriment in relation to the accommodation,

is or are contingent on that other person's acceptance of sexual advances or toleration of persistent sexual suggestions or innuendo from the first-mentioned person.

#### **6. OPTION 1: Establishment of Tribunal**

6. (1) There shall be established, for the purposes of this Act, a Tribunal which shall -

- (a) promote an understanding and acceptance of and compliance with, this Act;
- (b) perform the functions conferred on it by this Act;
- (c) on its own initiative or when requested by the Minister, make recommendations regarding action to be taken on matters relating to discrimination involving sexual harassment.

#### **First Schedule**

(2) The provisions of the First Schedule shall have effect as to the constitution of the Tribunal and otherwise in relation thereto.

#### **OPTION 2: Appointment of Tribunal**

6. (1) The Minister may appoint a Tribunal for the purpose of hearing any complaint under this Act where -

- (a) in the opinion of the authorised officer, the matter cannot be settled by conciliation, or
- (b) a complainant has made a written request pursuant to section 9(4).

(2) Subject to subsection (4), the Tribunal appointed under this section shall consist of three persons of whom

- (a) one member shall be an attorney-at law who has practised law or has served in a judicial or legal office for not less than ten years;
- (b) one member shall be a person who appears to the Minister to have sufficient knowledge of, or experience in relation to labour relations; and
- (c) one member shall be a person who, by training and experience is, in the opinion of the Minister, suitable for such appointment.

(3) The member appointed under subsection (2)(a) shall be chairman of the Tribunal.

(4) Where a tribunal is appointed under this section, the parties to the complaint shall be notified accordingly and for the hearing of any complaint under this Act, the Tribunal may consist of one member sitting alone if the parties to the complaint agree.

(5) Where the parties agree to the hearing of a complaint by one member of the Tribunal sitting alone, the decision of that member shall be final.

#### **Second Schedule**

(6) The notice referred to in subsection (4) shall be in the form set out in the Second Schedule.

#### **Designation of authorised officer and powers of entry and investigation**

7. (1) The Minister may designate such officers (hereinafter referred to as "authorised officers") as the Minister may think necessary for the purpose of investigating any complaints under this Act and otherwise securing the proper observance of the provisions of this Act.

(2) Any authorised officer may at any reasonable time, enter the premises of any respondent for the purposes of investigating a complaint in relation to that respondent.

(3) Any authorised officer shall be furnished with a certificate of designation and on entering any premises pursuant to subsection (2) the authorised officer shall, if required to do so, produce the certificate to the respondent or any other person in charge of the premises.

[(4) The authorised officer shall, in performing the functions specified in subsection (1), be subject to the directions of the Tribunal.]

## Complaints

8. (1) A complaint in writing alleging that a person has done an act that is unlawful by virtue of section 3, 4 or 5, may be lodged with the [Tribunal] [Permanent Secretary in the Ministry of Labour] by -

- (a) a person aggrieved by the act, on that person's own behalf or on behalf of other persons so aggrieved; or
- (b) a trade union of which a person referred to in paragraph (a) is a member, on behalf of that person.

(2) In this section "trade union" means -

- (a) an organisation of employees that is registered or recognised as such;
- (b) a trade union within the meaning of any law in force relating to labour and employment; or
- (c) any similar body.

## Inquiries by authorised officer

9. (1) Where a complaint relating to an alleged unlawful act is lodged pursuant to section 8, the authorised officer shall be notified accordingly and the authorised officer shall, subject to subsection (2), carry out investigations in relation to the act and endeavour by conciliation, to effect a settlement of the matter to which the act relates.

(2) The authorised officer may, for the purposes of such investigation obtain information from such persons and make such inquiries as the authorised officer thinks fit.

(3) The authorised officer may decide not to carry out any investigations or, as the case may be, may decide to discontinue any investigations if -

- (a) the authorised officer is of the opinion that the complainant does not desire that the inquiry be made or continued;
- (b) a period of more than twelve months has elapsed since the doing of the act and the complaint was not lodged before the expiration of a period of twelve months since the doing of the act; or
- (c) the authorised officer is of the opinion that the complaint is frivolous, vexatious, misconceived or lacking in substance.

(4) Where the authorised officer decides not to carry out or decides to discontinue any investigations in relation to an act, the authorised officer shall give notice in writing to the complainant of that decision and of the reasons therefor.

(5) A complainant who is notified under subsection (4) may, within [twenty-one] days after receipt of the notice, request the Tribunal in writing to conduct an inquiry into the matter.

(6) A complainant who is notified under subsection (4) may, within [twenty-one ] days after receipt of the notice, request the Minister in writing to cause an inquiry to be conducted into the matter.

## Power of authorised officer to obtain information and documents

10. (1) Where -

- (a) any investigations are being conducted by the authorised officer pursuant to section 9(1); and
- (b) the authorised officer has reason to believe that a person is capable of furnishing information (in this section referred to as "relevant documents") relevant to such investigations,  
the authorised officer may, by notice in writing served on that person, require the person, at such place and within such time as are specified in the notice -
  - (c) to furnish to the authorised officer, by writing signed by the person, such relevant information as is specified in the notice;
  - (d) to produce to the authorised officer such relevant documents as are specified in the notice.

(2) Where documents are produced to the authorised officer in accordance with a requirement under subsection 1), the authorised officer -

- (a) may take possession of, and make copies of, or take extracts from, the documents;
- (b) may retain possession of the documents for such period as is necessary for the purposes of the inquiry to which the documents relate; and
- (c) during that period shall permit a person who would be entitled to inspect any one or more of the documents if they were not in the possession of the authorised officer, to inspect at all reasonable times such of the documents as that person would be entitled to inspect.

## Report and reference of matters to Tribunal by authorised officer

11. (1) Where the authorised officer -

- (a) is of the opinion that a matter cannot be settled by conciliation;
- (b) has endeavoured to settle a matter by conciliation but has not been successful; or
- (c) is of the opinion that the matter is of such a nature that an inquiry should be conducted by the Tribunal,

the authorised officer shall refer the matter to the Tribunal together with a report relating to any investigations made by the authorised officer into the matter.

(2) The authorised officer shall make a report in writing to the Tribunal of -

- (a) any investigations carried out by the authorised officer in relation to a complaint; and
- (b) any resolution by conciliation, of a matter to which a complaint relates.

#### **Inquiries by Tribunal**

12. (1) Subject to subsection (2), the Tribunal shall conduct an inquiry -

- (a) pursuant to a request under section 9(4); or
- (b) into any matter referred to it under section 11.

(2) The Tribunal shall not conduct or shall discontinue an inquiry if the complainant notifies the Tribunal that the complainant does not wish the inquiry to be held or to be continued.

(3) The Tribunal

- (a) may endeavour by such means as it considers reasonable to resolve a complaint which is the subject of an inquiry; or
- (b) shall take all such steps as it considers reasonable to effect an amicable settlement of such complaint and for this purpose may adjourn an inquiry at any stage to enable the parties to negotiate with a view to settlement by amicable arrangements.

#### **Evidence**

13. (1) The Tribunal may take evidence on oath or affirmation and for that purpose a member of the Tribunal may administer an oath or affirmation.

(2) In the course of an inquiry, the Tribunal may, in its discretion -

- (a) receive in evidence the transcript of evidence in any proceedings before a court or tribunal and draw any conclusion of fact from that transcript that it considers proper;
- (b) adopt any findings, decision or judgment of a court or tribunal that may be relevant to the inquiry; and
- (c) receive in evidence any report of the authorised officer if a copy of that report has been made available to every other party to the inquiry.

#### **Attendance at inquiry**

14. (1) The Tribunal may, for the purpose of any inquiry, by notice in writing, direct the person referred to in subsection (2), to attend at a time and place specified in the notice for the purposes of the inquiry.

(2) Directions under subsection (1) shall be given to -

- (a) the complainant;
- (b) the respondent; and
- (c) where appropriate, the respondent's employer; and
- (d) any other person who, in the opinion of the Tribunal, is likely to be able to provide information relevant to the inquiry or whose presence is, in the opinion of the Tribunal, likely to be conducive to the settlement of the matter to which the act relates.

(3) The Tribunal may, in a notice under subsection (1), require the person notified to produce such documents as are specified in the notice.

(4) The Tribunal shall give each party to an inquiry reasonable opportunity to call witnesses or give evidence, examine and cross-examine witnesses and make submissions to the Tribunal.

#### **Right to representation at inquiry**

15. A party to an inquiry may be represented by an attorney-at-law or other person.

### **Determination by Tribunal**

16. (1) After holding an inquiry the tribunal may

(a) dismiss the complaint;

(b) find in favour of the complainant and make a determination which may include any one or more of the following declarations, that is to say -

(i) that the respondent has engaged in conduct amounting to sexual harassment and should not repeat or continue such conduct;

(ii) that the respondent should perform any reasonable act or course of conduct to redress any loss or damage suffered by the complainant;

(iii) that the respondent should employ or re-employ the complainant;

(iv) that the respondent should pay to the complainant damages by way of compensation for any loss or damage suffered by reason of the conduct of the respondent;

(v) that the respondent should promote the complainant;

(vi) that the termination of a contract or agreement should be varied to redress any loss or damage suffered by the complainant;

(vii) where the complaint relates to sexual harassment by a fellow worker, that the employer concerned should take such action as may be appropriate to ensure that the harassment ceases and to report thereon to the Tribunal.

(viii) that it would be inappropriate for any further action to be taken in the matter; or

(c) make such order as may be appropriate in relation to the complaint.

(2) The Tribunal may, in the making of a determination under subsection (1)(b) include injury to the complainant's feelings or humiliation suffered by the complainant.

(3) Where the Tribunal makes a determination by way of a declaration for the payment of compensation to the complainant, the sum so payable may be recovered by the complainant summarily in a Resident Magistrate's Court; without limit of amount, as a civil debt.

(4) Any respondent who fails to comply with a determination by the Tribunal shall be liable to be proceeded against and punished in like manner as if he were found guilty of contempt of Court.

### **Inquiry may be held in private**

17. (1) subject to subsection (2), an inquiry shall be held in public.

(2) The Tribunal may, of its own volition or on the application of a party to the inquiry, if it is satisfied that it is appropriate to do so, direct that an inquiry, or part thereof, be held in private.

### **Tribunal may prevent publication of evidence etc.**

18. The Tribunal may direct that

(a) any evidence given before it;

(b) the contents of any document produced to the Tribunal; or

(c) any information that might enable a person who has appeared before the Tribunal to be identified.

shall not be published or shall be published only in such manner, and to such persons, as the Tribunal may specify.

### **Appeal**

19. (1) Except as otherwise provided in [section 6(5) [option 2]], any person aggrieved by the Tribunal's decision on any matter may appeal to the [Court of Appeal] [a Judge in Chambers] in such form and manner as may be provided by rules of court.

(2) The [Court of Appeal] [Judge] may make such order in relation to an appeal under subsection (1) as [it] [he] thinks fit.

### **Unlawful act not offence unless so provided**

20. Except as expressly provided in sections 21 and 22, nothing in this Act makes it an offence to do an act that is unlawful by reason of section 3, 4 or 5.

### **Offence in relation to inquiry**

21. (1) Any person directed, pursuant to section 4(1) to attend an inquiry who fails without reasonable excuse to do so shall be guilty

of an offence and shall be liable on conviction to the penalty not exceeding [one thousand] dollars.

(2) A person who, without reasonable excuse fails or refuses to furnish information or produce documents pursuant to a requirement under section 10 or 14 shall be guilty of any offence and shall be liable on conviction to a penalty not exceeding [one thousand] dollars.

(3) A person appearing before the Tribunal as a witness at an inquiry who

(a) refuses or fails to be sworn or make an affirmation; or

(b) refuses or fails to answer a question required to be answered by the person presiding at the inquiry,

shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding [one thousand] dollars.

(4) A person who -

(a) interrupts the proceedings at any inquiry;

(b) uses insulting language towards a member of the Tribunal when that member is exercising any powers or performing any functions under this Act;

(c) publishes anything in contravention of section 18;

(d) creates a disturbance or takes part in creating or continuing a disturbance in or near a place where the Tribunal is holding an inquiry;

(e) furnishes to the authorised officer or the Tribunal any information or makes a statement at an inquiry knowing that the information or statement is false or misleading in a material particular;

(f) does any other acts or thing that would, if the Tribunal were a court of record, constitute a contempt of that court,

shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding [two thousand] dollars.

#### **Offence of victimisation**

22.(1) A person who commits an act of victimisation against another person shall be guilty of an offence and shall be liable to a penalty not exceeding [five thousand] dollars.

(2) For the purposes of subsection (1), a person shall be taken to commit an act of victimisation against another person if the first-mentioned person subjects, or threatens to subject, the other person to any detriment -

(a) on the grounds that the other person -

(i) has made, or proposes to make, a complaint under this Act;

(ii) has brought, or proposes to bring, proceedings under this act against any person;

(iii) has furnished, or proposes to furnish, any information, or has produced, or proposes to produce, any documents to a person exercising or performing any power or function under this Act;

(iv) has attended or proposes to attend an inquiry under this Act or to appear thereat as a witness;

(v) has made an allegation that a person has done an act that is unlawful by virtue of section 3, 4, or 5;  
or

(b) on the ground that the first-mentioned person believes that the other person has done, or proposes to do, an act or thing referred to in any of paragraphs (a)(i) to (v).

#### **Particulars of complaint not to be communicated etc.**

23. (i) Where a complaint has been lodged under section 8, a person not to be shall not, unless the Tribunal communicated, otherwise permits, divulge or etc. communicate to any other person, any particulars of that complaint until -

(a) the Tribunal has commended an inquiry; or

(b) where the authorised officer decided not to hold an inquiry a period of twenty-one days has expired since the complainant was notified under subsection (3) of section 9 and the complainant has not made a request under subsection (4) of that section for an inquiry to be held; or

(c) the complainant notifies the Tribunal under subsection (2) of section 12 that the complainant does not wish the inquiry to be held or continued.

(2) Nothing in subsection (1) shall prevent disclosure of the particulars of a complaint where such disclosure is required for the purpose of section 22.

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#### **SCHEDULES**

## **FIRST SCHEDULE (Section 6)**

### **Constitution of Tribunal**

1. (1) The Tribunal shall consist of three members appointed by the Minister as follows -
  - (a) one member shall be an attorney-at-law who has practised law or has served in a judicial or legal office for not less than ten years;
  - (b) one member shall be a person who appears to the Minister to have sufficient knowledge of, or experience in relation to, labour relations; and
  - (c) one member shall be a person who, by training or experience in the field of education or in relation to accommodation, is, in the opinion of the Minister, suitable for such appointment.
- (2) The member appointed under paragraph 1(a) shall be chairman of the Tribunal.

### **Tenure of office**

2. The members of the Tribunal shall be subject to the provisions of this Schedule, hold office for such period not exceeding two years as the Minister may determine and shall be eligible for reappointment.

### **Acting appointments**

3. The Minister may appoint any person to act in the place of the chairman or any other member of the Tribunal in the case of the absence or inability to act of the chairman or other member.

### **Resignation**

4. (1) Any member of the Tribunal other than the chairman may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument that member shall cease to be a member of the Tribunal.
- (2) The Chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt by the Minister of that instrument.

### **Revocation of appointments**

5. The Minister may at any time revoke the appointment of any member of the Tribunal if he thinks it expedient to do so.

### **Filling of vacancies**

6. If a vacancy occurs in the membership of the Tribunal such vacancy shall be filled by the appointment of another member.

### **Publication of membership**

7. The names of all the members of the Tribunal as first constituted and every change of membership thereof shall be published in the Gazette.

### **Remuneration of members**

8. There shall be paid to the chairman and other members of the Tribunal, in respect of any inquiry, such remuneration, whether by way of honorarium, salary or fees, and such allowances as the Minister may determine.

### **Voting**

9. The decision of the Tribunal shall be by a majority of votes of the members.

### **Power to regulate proceedings**

10. Subject to the provisions of this Act, the Tribunal shall regulate its own proceedings.

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## **SECOND SCHEDULE (Section 6)**

THE PROTECTION AGAINST SEXUAL HARASSMENT ACT  
(Notice under section 6)

- A. To:..... of  
(name of \*complainant/respondent)
- .....  
(address of \*complainant/respondent)
-

B. Notice is hereby given that -

I. For the purpose of hearing -

\*your complaint

\* a complaint lodged by .....(name of complainant)

of.....(address of complainant)

pursuant to section 8 of the Act, the Minister, in exercise of the power conferred on him by SECTION 6(i) of the Act, has appointed a Tribunal consisting of the following persons -

..... (chairman)  
(name and occupation)

.....  
(name and occupation)

.....  
(name and occupation)

II. Pursuant to SECTION 6(4) of the Act, the complaint may be heard by one member of the tribunal sitting alone IF THE PARTIES TO THE complaint AGREE.

C. You are hereby required to indicate below the name of the member nominated by you to sit alone.

I nominate the following person -

.....

(name of member)

.....

(name of \*complainant/respondent)

\* (Delete whichever is inapplicable)

.....  
(Cut along dotted line)

D. To: ..... of  
(name of \*complainant/respondent)

.....  
(address of \*complainant/respondent)

I. Mr./Mrs./Miss ..... (name and occupation of member of Tribunal nominated to sit alone)

has been nominated by .....(name of \*complainant/respondent)

to hear the complaint lodged under section 8 of the Protection Against Sexual Harassment Act.

II. Do you agree with the nomination?

Yes.....

No.....

If the answer is Yes, complete section E.

E. I ..... of ..... do hereby AGREE that the decision of the person named at section D I above shall, for all purposes of the Protection Against Sexual Harassment Act, be final and conclusive.

.....  
Signature of \*complainant/respondent

.....  
(name, address and occupation of witness)

18/4/96

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