EQUAL OPPORTUNITIES ACT

Act 42 of 2008 – 1 January 2012

Amended 31/11 (P 26/11 cio 31/12/11); P 27/11 cio 1/1/12; 15/17 (cio 23/11/17); 23/17 – P1/2020 (cio 16/1/2020); 21/25 – P 23/25 (cio 5/1/26); 4/26 – P 13/26 (cio 1/7/26);

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SCHEDULE

EQUAL OPPORTUNITIES ACT

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Equal Opportunities Act.

2. Interpretation

In this Act –

"accommodation" includes residential, business and commercial accommodation;

"Chairperson" means the Chairperson of the Commission;

"charitable benefit" means a benefit for a purpose that is charitable, having regard to the status of the recipients or, in the case of a body of persons, to the objects of the body;

"club" means a registered association formed for sporting, cultural or other recreational activities;

"Commission" means the Equal Opportunities Commission established under section 27;
[Repealed and replaced 31/11 (cio 31/12/11).]

"complaint" means a complaint made under section 28 or 29;

"contract worker" means an employee of a job contractor;

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[Repealed and replaced 31/11 (cio 31/12/11).]

"discriminate" means –

(a) discriminate directly on the ground of status, as provided under section 5;

(b) discriminate indirectly on the ground of status, as provided under section 6; or

(c) discriminate by victimisation, as provided under section 7;

"educational institution" means a university, college, school or other body where education or training is provided;

"employee" –

(a) includes –

(i) a person who has entered into, or works under, a contract of apprenticeship; and

(ii) a part-time or temporary employee; but

(b) does not include a job contractor;

"employer" includes a person, an enterprise, the State, a statutory corporation, a body of persons employing a worker, or a group of employers or a trade union of employers;

"employment" includes –

(a) part-time or temporary employment;

(b) work under a contract for services;

(c) work under a contract of apprenticeship; and

(d) the employment of a job contractor;

"employment agency" means a business set up for the purpose of placing persons in employment in Mauritius or abroad;

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[Repealed and replaced 31/11 (cio 31/12/11).]

"facilities" includes facilities –

(a) for entertainment, recreation or refreshment;

(b) for transport or travel; and

(c) provided by any profession, trade or business relating to the activities of the State, a local authority or a parastatal body;

"higher education institution" has the same meaning as in the Higher Education Act 2017;
[Inserted 23/17 (cio 16/1/2020).]

"impairment" means –

(a) total or partial loss of a bodily function;

(b) the presence in the body of organisms that may cause disease;

(c) total or partial loss of a part of the body;

(d) malfunction of a part of the body, including –

(i) a mental or psychological disease or disorder;

(ii) a condition or disorder that results in a person learning more slowly than people who do not have that condition or disorder;

(e) malformation or disfigurement of a part of the body;

"investigation" means an investigation conducted under section 30;

"job contractor" –

(a) means a person who employs a person to perform any work or service which he has contracted to do or provide, for a principal; and

(b) includes a contractor who is engaged in the provision of work or services for the State, a local authority or a parastatal body;

"law practitioner" has the same meaning as in the Law Practitioners Act;
[Inserted 31/11 (cio 31/12/11).]

"marital status" means the condition of being –

(a) single;

(b) civilly or religiously married;

(c) married but living separately from one's spouse;

(d) divorced;

(e) widowed; or

(f) a single parent;

"member" –

(a) means a member of the Commission; and

(b) includes the Chairperson;
[Repealed and replaced 31/11 (cio 31/12/11).]

"officer", in relation to a company, partnership, *société*, registered association or club, means a person who is responsible for the management of the affairs of the body concerned;

"principal" means a person for whom a job contractor has contracted to do or provide any work or service;

"registered association" –

(a) has the same meaning as in the Registration of Associations Act; but

(b) does not include a club;

"relevant law" means any enactment other than this Act dealing with the subject matter of discrimination;

"religious shop" means a business set up for selling articles of a religious character;

"respondent" means a person against whom a complaint has been made;

"services" includes services relating to –

(a) banking, insurance or the provision of grants, loans, credit or finance;

(b) entertainment, recreation or refreshment;

(c) access to and use of a place to which the public or a section of the public has access;

(d) transport or travel;

(e) accommodation in a hotel, guest house or similar establishment;

(f) any profession, trade or business; and

(g) the activities of the State, a local authority or parastatal body;

"sexual orientation" means homosexuality (including lesbianism), bisexuality or heterosexuality;

"spouse", in relation to a person, means the person to whom he is, or has been, civilly or religiously married;

"status" –

(a) means age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation; and

(b) in relation to sections 10 and 11, includes criminal record;
[Repealed and replaced 15/17 (cio 23/11/17)]

"Tribunal" means the Equal Opportunities Tribunal set up under section 34.

[S. 2 amended by s. 3 of Act 31/11 w.e.f. 31 December 2011; s. 2A of Act 15 of 2017 w.e.f. 23 November 2017; s. 53(4)(a) of Act 23 of 2017 w.e.f. 16 January 2020.]

3. Application of Act

(1) This Act shall bind the State.

(2) This Act shall have effect notwithstanding any other enactment relating to employment, education, qualifications for a profession, trade or occupation, the provision of goods, services, facilities or accommodation, the disposal of property, companies, partnerships, *sociétés,* registered associations, sports, clubs and access to premises which the public may enter or use.

(3) This Act shall be in addition to, and not in derogation from, the Training and Employment of Disabled Persons Act.

4. Non-application of Act

(1) Nothing in this Act shall –

(a) prohibit the provision of different treatment to a person in relation to an annuity, life insurance policy, accident insurance policy, or similar matter involving the assessment of risk, where the treatment –

(i) is determined by actuarial or other data from a source on which it was reasonable to rely; and

(ii) is reasonable having regard to those data and any other relevant factors;

(b) affect –

(i) a provision in a deed, will or other document made before or after the commencement of this Act, that confers a charitable benefit, or enables a charitable benefit to be conferred, on a person on the basis of his status; or

(ii) an act that is done in order to give effect to such a provision;

(c) prohibit making the membership of a club available to persons of one sex only;

(d) in relation to any sport, game or other activity of a competitive nature where the physical strength, stamina or physique of the average woman puts her at a disadvantage to the average man, prohibit any act related to the participation of a person as a competitor in events involving that activity which are not confined to competitors of one sex;

(e) in relation to a body whose activities are carried out otherwise than for profit, restrict –

(i) the membership of that body; or

(ii) the provision of benefits, facilities or services,

to a person of a particular sex or marital status;

(f) prohibit the granting to a woman of any right or privilege in connection with pregnancy or childbirth.

(2) This Act shall not apply to –

(a) the ordination of a priest, a minister of religion or a member of a religious order or the training or education of such a person;

(b) the selection or appointment of a person to perform functions in connection with, or otherwise to participate in, any religious observance or practice; or

(c) any other act or practice of a body established for religious purposes which conforms to the tenets or beliefs of that religion or is necessary to avoid injury to the religious susceptibilities of adherents to that religion.

PART II – FORMS OF DISCRIMINATION

5. Direct discrimination

(1) A person ("the discriminator") discriminates directly against another person ("the aggrieved person") on the ground of the status of the aggrieved person where –

(a) in the same or similar circumstances, the discriminator treats or proposes to treat the aggrieved person less favourably than he treats or would treat a person of a different status; and

(b) the discriminator does so by reason of –

(i) the status of the aggrieved person; or

(ii) a characteristic that generally appertains or is imputed to persons of the status of the aggrieved person.

(2) In determining whether the discriminator directly discriminates, it is irrelevant –

(a) whether or not he is aware of the discrimination or considers the treatment less favourable;

(b) whether or not the status of the aggrieved person is the only or dominant reason for the discrimination, as long as it is a substantial reason.



(3) (a) A discriminator is deemed to discriminate on the ground of sex where he acts as he does because of –

(i) the pregnancy, family responsibility or potential pregnancy of the aggrieved person; or

(ii) a characteristic of the aggrieved person that generally appertains, or is imputed, to a person who is pregnant, has family responsibility or is potentially pregnant.

(b) For the purposes of paragraph (a) –

"family responsibility" means the responsibility of a person to care for or support –

(i) a dependent child; or

(ii) any other immediate family member who is in need of care or support;

"potential pregnancy" means the fact that a woman –

(i) is or may be capable of bearing children;

(ii) has expressed a desire to become pregnant; or

(iii) is likely, or is perceived as being likely, to become pregnant.

6. Indirect discrimination

(1) A person ("the discriminator") discriminates indirectly against another person ("the aggrieved person") on the ground of the status of the aggrieved person where –

(a) the discriminator imposes, or proposes to impose, a condition, requirement or practice on the aggrieved person;

(b) the condition, requirement or practice is not justifiable in the circumstances; and

(c) the condition, requirement or practice has, or is likely to have, the effect of disadvantaging the aggrieved person when compared to other persons of the same status.

(2) For the purposes of subsection (1) (b), the burden of proving that a condition, requirement or practice is justifiable in the circumstances lies on the discriminator.

(3) The matters to be taken into account in determining whether or not a condition, requirement or practice is justifiable in the circumstances include –

(a) the nature and extent of the disadvantage resulting, or likely to result, from the imposition or proposed imposition of the condition, requirement or practice;

(b) the likelihood of overcoming or mitigating the disadvantage; and

(c) whether the disadvantage is proportionate to the result sought to be achieved by the discriminator.

(4) In determining whether the discriminator indirectly discriminates, it is irrelevant –

(a) whether or not he is aware of the discrimination;

(b) whether or not the status of the aggrieved person is the only or dominant reason for the discrimination, as long as it is a substantial reason.

7. Discrimination by victimisation

(1) Subject to subsection (2), a person ("the discriminator") discriminates by victimisation against another person ("the aggrieved person") where he subjects or threatens to subject the aggrieved person to any detriment or where he treats the aggrieved person less favourably than in those circumstances he treats or would treat other persons, and does so –

(a) on the ground that the aggrieved person –

(i) has made, or proposes to make, a complaint against the discriminator or any other person under this Act;

(ii) has brought, or proposes to bring proceedings under this Act against the discriminator or any other person;

(iii) has furnished or proposes to furnish, any information or has produced, or proposes to produce a document 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 provide evidence or testimony as a witness; or

(v) has made in good faith an allegation that the discriminator or any other person has committed an act of discrimination in contravention of this Act; or

(b) on the ground that the discriminator believes that the aggrieved person has done or proposes to do any of the things referred to in paragraph (a).

(2) Subsection (1) does not apply to the treatment of a person by reason of any allegation made by him where the allegation was false and not made in good faith.

8. Motive irrelevant to discrimination

In determining whether or not a person ("the discriminator") discriminates, the discriminator's motive is irrelevant.

PART III – EMPLOYMENT ACTIVITIES

9. Equal opportunity policy

(1) Every employer shall, in conformity with such guidelines and codes as may be prepared by the Commission under section 27 (3) (f), draw up and apply, within such delay as may be specified by that Commission, an equal opportunity policy at his place of work with a view to minimising the risk of an employee being discriminated against and to promote recruitment training, selection and employment on the basis of merit.

[Amended 31/11 (cio 31/12/11).]

(2) Every employer shall, with a view to promoting equality among his employees, and taking into consideration the employer's resources and circumstances in general, take such measures as may be required to –

(a) ensure that working conditions are suitable for women and men; and

(b) facilitate gainful employment and parenthood for female and male employees.

10. Employment of persons

(1) No employer or prospective employer shall discriminate against another person –

[Amended 15/17 (cio 23/11/17)]

(a) in the advertisement of a job;

(b) in the arrangements he makes for the purpose of determining who should be offered employment;

(c) in determining who should be offered employment;

(d) in the terms or conditions on which employment is offered;
[Amended 15/17 (cio 23/11/17)]

(e) by refusing or deliberately omitting to offer employment to that person; or

(f) where, subject to subsection (2), that person's certificate of character specifies that he has been convicted of a crime or misdemeanour which is not related to his employment or to the employment for which he is being considered.
[Added 15/17 (cio 23/11/17); RR 4/26 (cio 1/7/26).]

(2) The burden of establishing the relevance of the criminal record to the nature of employment shall rest with the employer or prospective employer.

[S. 10 amended by s. 3 of Act 15 of 2017 w.e.f. 23 November 2017; s. 12 of Act 4 of 2026 w.e.f. 1 July 2026]

11. Persons in employment

(1) No employer shall discriminate against an employee –

(a) in the terms or conditions of employment that the employer affords that employee;

(b) in conditions of work or occupational safety and health measures;

(c) in the provision of facilities related to or connected with employment;

(d) by denying the employee access, or limiting access, to opportunities for advancement, promotion, transfer or training, or to any other benefit, facility or service associated with employment;

(e) by terminating the employment of the employee;
[Amended 15/17 (cio 23/11/17)]

(ea) where, subject to subsection (2), the employee has a criminal record which is irrelevant to the nature of the promotional post for which the employee is being considered; or

[Added 15/17 (cio 23/11/17)]

(f) by placing the employee at a disadvantage in any other manner.

(2) The burden of establishing the relevance of the criminal record to the promotional post shall rest with the employer.

[Added 15/17 (cio 23/11/17).]

[S. 11 amended by s.4 of Act 15 of 2017 w.e.f. 23 November 2017.]

12. Persons undergoing training

No employer shall discriminate against another person where that other person is seeking or undergoing training for employment –

(a) in the terms or conditions on which the other person is afforded access to a training course or other facility concerned with training; or

(b) by terminating the other person's training or placing him at a disadvantage during the course of training.

13. Exceptions to sections 10 to 12

(1) Notwithstanding sections 10 to 12, an employer or prospective employer may discriminate on the ground of sex where being of a particular sex is a genuine occupational qualification for employment, promotion, transfer or training.

(2) For the purposes of subsection (1), being of a particular sex is a genuine occupational qualification where –

(a) the duties relating to the employment or training can only be performed by a person having particular physical characteristics, other than strength or stamina, that are possessed only by persons of that sex;

(b) the duties relating to the employment or training need to be performed by a person of a particular sex to preserve decency or privacy because they involve the fitting of clothing for persons of that sex;

(c) the duties relating to the employment or training include the conduct of searches of the clothing or bodies of persons of a particular sex;

(d) the nature of the establishment where the work is carried out requires a position to be held by a person of a particular sex because –

(i) it is a hospital, prison or other establishment for persons requiring special care, supervision or attention;

(ii) the other persons are all of the same sex, except where the presence of a person of the opposite sex is exceptionally required; and

(iii) it is reasonable, having regard to the essential character of the establishment, that the position should not be held by a person of the opposite sex; or

(e) the holder of the position provides persons with personal services for promoting their health, welfare or education, and those services can most effectively be provided by a person of a particular sex.

(3) Notwithstanding sections 10 to 12, an employer or prospective employer may discriminate against a person who has an impairment where –

(a) taking into account the person's past training, qualifications and experience relevant to the particular employment, and in case the person is already employed by that employer, that person's performance as an employee, and all other relevant factors that it is reasonable to take into account, that person because of his impairment –

(i) would be unable to carry out the inherent requirements of the particular employment; or

(ii) would, in order to carry out those requirements, require services or facilities that are not required by persons without an impairment and the provision of which would impose an unjustifiable hardship on the employer; or

(b) because of the nature of the impairment, the work environment or the nature of the work involved, there is or likely to be –

(i) a substantial risk that the person will injure himself; or

(ii) a risk that the person will injure others, and it is not reasonable in all the circumstances to take that risk.

(4) For the purposes of subsection (3) (a) (ii), in determining what constitutes unjustifiable hardship, all relevant circumstances of the particular case shall be taken into account including –

(a) the nature of the benefit, facility or service or detriment likely to accrue or be suffered by any person concerned; and

(b) the financial circumstances of, and the estimated amount of expenditure required to be made by, the employer.

(5) Notwithstanding sections 10 to 12, an employer or prospective employer may discriminate –

(a) on the ground of age, where the offer of employment is limited to persons of a particular age;

(b) on the ground of religion where being of a particular religion is a necessary qualification for employment in a religious shop;

(c) in determining who should be offered employment in relation to the provision of domestic or personal services in, or in relation to, any person's home;

(d) on the basis of political belief or activity in the offering of employment to another person as a ministerial adviser, member of staff of a political party, member of the electorate staff of any person or any similar employment;

(e) in determining who should be offered employment where the employer employs no more than 10 employees on a full-time basis; or

(f) in determining who should be offered employment or training where, for purposes of authenticity, the duties relating to the employment or training require the

participation of a person of a particular age, sex, race or colour –

(i) in a dramatic performance or other form of entertainment; or

(ii) as an artist's photographic or exhibition model in the production of a work of art, visual image or sequence of visual images.

14. Employment agencies

No employment agency shall discriminate against a person –

(a) by refusing to provide the person with any of its services;

(b) in the terms or conditions on which it offers to provide the person with any of its services; or

(c) in the manner in which it provides the person with any of its services.

15. Professions, trades or occupations

No person who is empowered to confer, renew, extend, revoke or withdraw an authorisation or qualification that is needed for, or that facilitates, the practice of a profession, the carrying on of a trade or the engaging in an occupation, shall discriminate against another person –

(a) by refusing or failing to confer, renew or extend the authorisation or qualification to which that person may be entitled;

(b) in the terms or conditions on which he is prepared to confer, renew or extend the authorisation or qualification; or

(c) by revoking or withdrawing the authorisation or qualification or varying the terms on which it was conferred, renewed or extended.

16. Information in respect of qualifications

(1) Subject to subsection (2), where a person who has not been offered employment or an employee who has been transferred or not been promoted has reason to believe that he has been the subject of discrimination, he shall be entitled to obtain, in writing, from the employer information on the experience or qualifications of the successful candidate as is available to the employer.

(2) An employer shall not, for the purposes of subsection (1), communicate any information which identifies or purports to identify the successful candidate.

PART IV – OTHER ACTIVITIES

17. Education

(1) Subject to subsections (2) and (3), no educational institution shall discriminate –

(a) against a person –

(i) in deciding who should be admitted as a student;

(ii) by refusing or failing to accept that person's application for admission as a student;

(iii) in the way in which that person's application is processed; or

(iv) in the terms or conditions on which it is prepared to admit that person as a student; or

(b) against a student by –

(i) denying him access, or limiting his access, to any benefit, facility or service provided by the educational institution;

(ii) expelling him; or

(iii) placing him at a disadvantage in any other manner.

(2) An educational institution, other than a higher education institution, may refuse or fail to accept a person's application for admission as a student where –

[Inserted 23/17 (cio 16/1/2020).]

(a) the institution is only open to students of the opposite sex or students of a particular age or age group; or

(b) at the level at which the person is seeking admission, the institution only, or mainly, caters for students of the opposite sex.

(3) An educational institution may discriminate against a person on the basis of impairment where –

(a) in order to participate or continue to participate in, or to derive or continue to derive substantial benefit from, the educational programme of the institution –

(i) the person requires or would require special services or facilities; and

(ii) it is not reasonable in the circumstances for those special services or facilities to be provided; or

(b) the person could not participate or continue to participate in, or derive or continue to derive substantial benefit from, the educational programme even after the provision of special services or facilities.

[S. 17 amended by s. 53(4)(b) of Act 23 of 2017 w.e.f. 16 January 2020.]

18. Provision of goods, services or facilities

No person who, for payment or otherwise, provides goods, services or facilities, shall discriminate against another person –

(a) by refusing or failing to provide him with those goods, services or facilities; or

(b) in the terms or conditions on which, or the manner in which, he provides that other person with those goods, services or facilities.

19. Accommodation

(1) Subject to subsection (2), no person shall discriminate against another person –

(a) by refusing or failing to accept that person's application for accommodation;

(b) by refusing to extend or renew the provision of accommodation to that person;

(c) in the way in which that person's application is processed;

(d) by deferring that person's application for accommodation, or according him a lower order of precedence on any list of applicants for accommodation; or

(e) in the terms or conditions on which accommodation is offered to that person;

(f) by denying that person access, or limiting his access, to a benefit, facility or service associated with accommodation occupied by him;

(g) by evicting that person from accommodation occupied by him; or

(h) by placing that person at a disadvantage in any other manner in relation to accommodation occupied by him.

(2) Subsection (1) shall not apply to –

(a) the provision by a person of accommodation in any premises where he or a relative of his, resides, and intends to continue to reside;

(b) the provision by a person of accommodation in any premises which comprise not more than 3 units available for occupation;

(c) the provision of accommodation in any hostel or other similar institution established wholly for the welfare of persons of a particular status;

(d) the provision of accommodation by a religious body;

(e) the provision of shared accommodation in any premises which, for reasons of privacy or decency or because of the nature of the sanitary facilities, are used by persons of one sex only; or

(f) the provision of accommodation in any premises is restricted or limited to persons of a particular sex, age, race or religious belief.

20. Disposal of immovable property

(1) Subject to subsection (2), no person shall discriminate against another person –

(a) by refusing or failing to dispose of any immovable property to him; or

(b) in the terms or conditions on which any immovable property is offered to him.

(2) Subsection (1) shall not apply to any enactment making provision for the matters set out in section 16 (4) of the Constitution.

21. Companies, partnerships, *sociétés* or registered associations

(1) Where any person proposes to invite another person to join him in the setting up of a company, partnership, *société* or registered association, he shall not discriminate against that person –

(a) in determining who shall be invited to become a member of the company, partnership, *société* or registered association; or

(b) in the terms or conditions on which he is invited to become a member.

(2) A company, partnership, *société* or registered association, or an officer shall not discriminate against a member of the body concerned –

(a) in a manner specified in subsection (1);

(b) by denying that member access, or limiting his access, to a benefit, facility or service arising from membership;

(c) by expelling that member; or

(d) by placing that member at a disadvantage in any other manner.

22. Clubs

(1) Subject to subsection (2), no club or officer of the club shall discriminate –

(a) against a person –

(i) by refusing or failing to accept that person's application for membership;

(ii) in the way in which that person's application is processed; or

(iii) in the terms or conditions on which that person is invited to become a member; or

(b) against a member of the club –

(i) in the terms or conditions of membership that are afforded to that member;

(ii) by refusing or failing to accept that member's application for admission to a different class or type of membership;

(iii) by denying that member access, or limiting his access, to any benefit, facility or service provided by the club;

(iv) by varying the terms of that member's membership;

(v) by depriving that member of membership; or

(vi) by placing that member at a disadvantage in any other manner.

(2) Subsection (1) (b) (iii) shall not apply to an act in relation to the use or enjoyment of any benefit, facility or service provided by the club where –

(a) it is not practicable for the benefit, facility or service to be used or enjoyed by people of different status simultaneously, or to the same extent; and

(b) in that club, the same or an equivalent benefit, facility or service is available to persons of a different status, or where people of a different status are entitled to a reasonable share of the use or enjoyment of the benefit, facility or service.

(3) A club may exclude a person from membership where –

(a) the club exists principally to provide benefits for people of a particular age group or sex; and

(b) that person does not belong to that age group or sex.

23. Access to premises

(1) Subject to subsection (2), no person shall discriminate against another person –

(a) by refusing to allow him access to, or the use or enjoyment of any premises, which the public or a section of the public may enter or use, whether on payment or not;

(b) in the terms or conditions on which he is allowed to have access to or use or enjoy any such premises;

(c) in relation to the provision of means of access to any such premises; or

(d) by requiring him to leave any such premises or to cease to use or enjoy the premises or by unjustifiably restricting in any other way any such use or enjoyment.

(2) Subsection (1) shall not apply to the access to or use or enjoyment of any premises by a person with an impairment where –

(a) the premises are not designed or constructed in such a way as to render them accessible to a person with the impairment; and

(b) any alteration to the premises would impose unjustifiable hardship on the person required to provide access.

(3) For the purposes of subsection (2), in determining what constitutes unjustifiable hardship, all relevant circumstances of the particular case shall be taken into account including –

(a) the nature of the benefit, facility or service or detriment likely to accrue or be suffered by any person concerned; and

(b) the financial circumstances of, and the estimated amount of expenditure required to be made by, the person required to provide access.

24. Sports

(1) Subject to subsections (2) and (3), no person shall discriminate against another person –

(a) in the arrangements made for the purpose of determining who should participate in a sports activity;

(b) in determining who should be authorised to participate in a sports activity; or

(c) in the terms or conditions on which participation in a sports activity is authorised.

(2) A person may exclude people of a particular sex from participating in a competitive sporting activity in which the strength, stamina or physique of competitors is relevent.

(3) A person may restrict participation in a competitive sporting activity to people –

(a) who can effectively compete;

(b) of a specified age or age group; or

(c) with a general or particular impairment.

PART V – SEXUAL HARASSMENT

25. Sexual harassment

(1) A person sexually harasses another person where, in circumstances in which a reasonable person would have foreseen that the other person would be humiliated, offended or intimidated, he –

(a) makes an unwelcome sexual advance, or an unwelcome request for a sexual favour, to another person; or

(b) engages in any other unwelcome conduct of a sexual nature towards another person.

(2) For the purposes of subsection (1) (b), "conduct" includes making or issuing an unwelcome oral or written statement of a sexual nature to a person or in the presence of a person.

26. Acts of sexual harassment

(1) No employer, or agent of an employer, shall sexually harass an employee or a person seeking employment from the employer.

(2) No job contractor or principal shall sexually harass a contract worker.

(3) No employee shall sexually harass a fellow employee or a person seeking employment from his employer.

(4) No agent of an employment agency shall sexually harass a person in the course of providing, or offering to provide, any of the agency's services to that person.

(5) No person referred to in section 15, or his employee, shall sexually harass another person in relation to the conferment, renewal, extension, revocation or withdrawal of an authorisation or qualification referred to in that section.

(6) (a) No member of the staff of an educational institution shall sexually harass a student at the institution or a person who is seeking admission as a student.

(b) No student at an educational institution shall sexually harass another student or a member of the staff.

(7) No person referred to in section 18 shall sexually harass another person in the course of providing or offering to provide goods, services or facilities to the other person.

(8) No person referred to in section 19 shall sexually harass another person in the course of providing, or offering to provide, accommodation to the other person.

(9) No person shall sexually harass another person in the course of dealing with the other person in connection with –

(a) disposing, or offering to dispose of, any immovable property to the other person; or

(b) acquiring, or offering to acquire, any immovable property from the other person.

(10) No officer or member of a company, partnership, *société,* registered association or club shall sexually harass a member or other member, as the case may be, or a person seeking to become a member.

(11) Any person who contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

PART VI – EQUAL OPPORTUNITIES COMMISSION

[Amended 31/11 (cio 31/12/11).]

27. Equal Opportunities Commission

[Amended 31/11 (cio 31/12/11).]

(1) There is established for the purposes of this Act an Equal Opportunities Commission, which shall be a body corporate.

(2) (1A) The Commission shall consist of a Chairperson and 3 other members.

(1B) (a) The Chairperson shall be a person who has been –

(i) a Judge;

(ii) a Magistrate for not less than 10 years;

(iii) a law practitioner for not less than 10 years; or

(iv) a Magistrate and a law practitioner for an aggregate period of not less than 10 years.

(b) One of the members shall be a person who has been a law practitioner for not less than 5 years.

(c) The other members shall be persons having knowledge and experience in the field of law, employment, industrial relations, sociology or administration.

(1C) (a) The members shall be appointed by the President of the Republic, acting on the advice of the Prime Minister, on such terms and conditions as the President thinks fit.

(b) Before tendering advice to the President under paragraph (a), the Prime Minister shall consult the Leader of the Opposition.

(1D) Subject to subsection (1F), every member shall hold office for a term of 4 years and shall be eligible for reappointment.

(1E) The President of the Republic may, on the advice of the Prime Minister, remove any member from office for inability to perform the functions of his office, whether arising from infirmity of body or mind, or for misbehaviour.

(1F) Subject to subsection (1H) –

(a) where any vacancy occurs in the office of the Chairperson by reason of death, resignation or any other cause, the President of the Republic shall appoint one of the members to act as Chairperson until the vacancy is filled;

(b) where the Chairperson is absent or on leave, he may appoint one of the members to act as Chairperson until the date on which the Chairperson resumes his office.

(1G) A member shall not enter upon the duties of his office unless he has taken and subscribed, before the President of the Republic, the oath set out in Part A of the Schedule.

[Repealed and replaced 37/11(cio 31/12/11).]

(2) Three members, including the Chairperson, shall constitute a quorum at any sitting of the Commission.

[Amended 31/11 (cio 31/12/11).]

(3) The Commission shall –

[Amended 31/11 (cio 31/12/11).]

(a) work towards the elimination of discrimination, and the promotion of equality of opportunity and good relations between persons of different status;

(b) keep under review the working of this Act and any relevant law and submit to the Attorney-General proposals for amending them, if required;

(c) of its own motion or following a complaint, carry out an investigation;

(d) attempt to reconcile the parties to whom and against whom a complaint relates;

(e) conduct and foster research and educational and other programmes for the purpose of eliminating discrimination and promoting equality of opportunity and good relations between persons of different status; and

(f) prepare appropriate guidelines and codes for the avoidance of discrimination and take all necessary measures to ensure that the guidelines and codes are brought to the attention of employers and the public at large.

(4) For the purposes of subsection (3), the Commission may do anything that it considers necessary for, or exercise all powers, conducive or incidental to, the carrying out of its functions, and in particular may –

[Amended 31/11 (cio 31/12/11).]

(a) take such measures as it considers necessary to ensure compliance with the duties imposed on any person under this Act;

(b) on completion of an investigation which reveals that an offence has been committed under this Act or a relevant law, refer the matter to the Director of Public Prosecutions;

(c) refer any matter to the Tribunal for non-compliance with this Act; or

(d) apply for an interim order under section 35 (1) (b).

[S. 27 amended by s. 7 of Act 31 of 2011 w.e.f. 31/12/11.]

27A. Staff of Commission

(1) The Secretary to the Cabinet shall make available to the Commission an officer of the rank of Principal Assistant Secretary who shall be the Secretary of the Commission, and such other administrative and other staff as the Commission may require.

(2) The Secretary of the Commission shall exercise such powers and discharge such administrative functions as the Commission may delegate to him.

(3) The relevant Service Commission may approve the transfer, promotion or secondment of any officer in the public service to any office within the Commission and any public officer so transferred, promoted or seconded shall, in relation to any gratuity, pension or other allowance, be treated as continuing in the public service.

(4) The Commission may, on such terms and conditions as it thinks fit, engage on contract such suitably qualified person or body as may be necessary for the proper discharge of its functions.

[S. 27A added by s. 8 of Act 37 of 2011 w.e.f. 31/12/11.]

28. Lodging a complaint

(1) Subject to section 29, any person who alleges that any of his rights under this Act has been infringed may lodge a written complaint with the Commission, setting out the details of the alleged act of discrimination.
[Amended 31/11 (cio 31/12/11).]

(2) (a) Subject to paragraph (b), a complaint under subsection (1) shall be lodged within 12 months of the date of the alleged act of discrimination.

(b) The Commission may, on good cause shown to it by the complainant, extend the delay referred to in paragraph (a).
[Amended 31/11 (cio 31/12/11).]

[S. 28 amended by s. 4 of Act 31/11 w.e.f. 31 December 2011.]

29. Persons with impairment

(1) Where a person is unable to lodge a complaint because of an impairment, he may authorise another person to act on his behalf in relation to the complaint.

(2) A person authorised under subsection (1) shall have the same powers in relation to the complaint as he would have if he were the person on whose behalf he acts.

(3) An authorisation under subsection (1) may be given –

(a) in writing; or

(b) in such other manner as the Commission may approve.

[S. 29 amended by s. 4 of Act 31/11 w.e.f. 31 December 2011.]

30. Investigation

(1) Subject to section 32, the Commission may, where a complaint appears to it to be well-founded, conduct an investigation into the complaint.
[Amended 31/11 (cio 31/12/11).]

(2) For the purposes of subsection (1), the Commission may, by written notice –
[Amended 31/11 (cio 31/12/11).]

(a) require any employer to disclose information regarding any equal opportunity policy it has adopted in its place of work;

(b) require any person to furnish any information described in the notice;

(c) specify the time within which the person shall furnish the information; and

(d) require the person to –

(i) attend at such time and place as may be specified in the notice;

(ii) give such evidence as it considers necessary; and

(iii) produce any document or exhibit as is in his possession or control relating to any matter specified in the notice.

(3) A person served with a notice under subsection (2) shall not be compelled to give evidence, or produce any document, which he could not be compelled to give in evidence, or produce, in civil proceedings before a court.

(4) For the purposes of conducting an investigation, the Commission may record statements under warning from any person.
[Amended 31/11 (cio 31/12/11).]

(5) Any person who, without reasonable cause, fails to comply with a notice referred to in subsection (2) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees.

[S.30 amended by s. 4[S.30 amended by s. 3 of Act 31 of 2011 w.e.f. 31 December 2011.]

31. No ground for complaint

Where, on investigating a complaint, the Commission finds that there is no evidence of discrimination, it shall, in writing, inform –
[Amended 31/11 (cio 31/12/11).]

(a) the complainant; and

(b) any person against whom the complaint was made,

of that fact and the reasons for its finding, and it shall take no further action on the complaint.

[S. amended by s. 3 of Act 31/11 w.e.f. 31 December 2011.]

[S.33 amended by s. 4 of Act 31 of 2011 w.e.f. 31 December 2011.]

32. Conciliation

(1) The Commission shall, in the first place, attempt to resolve any matter which is the subject of an investigation by conciliation.
[Amended 31/11 (cio 31/12/11).]

(2) For the purposes of conciliation under subsection (1), the Commission may, by written notice, require the attendance of –
[Amended 31/11 (cio 31/12/11).]

(a) the complainant;

(b) any person who is alleged to have committed the act of discrimination which is the subject matter of the complaint; and

(c) any other person –

(i) who is likely to be able to provide information relevant to the conciliation proceedings; or

(ii) whose presence at the meeting is likely to assist in the matter.

(3) The Commission may, in a notice under subsection (2), require any person specified in the notice to produce such documents at the conciliation proceedings as are specified in the notice.
[Amended 31/11 (cio 31/12/11).]

(4) Any conciliation proceedings held under this section may, with the consent of the parties, be in private and, subject to this Act, shall be conducted in such manner as the Commission thinks fit.
[Amended 31/11 (cio 31/12/11).]

(5) Where a complaint has been settled by conciliation, the settlement shall be embodied in a written agreement and registered with the Tribunal and, upon registration, the agreement shall be deemed to be an order of the Tribunal and be binding on the parties.

(6) Any person who, without reasonable cause, fails to comply with a notice referred to in subsection (2) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees.

[S.32 amended by s. 4 of Act 31 of 2011 w.e.f. 31 December 2011.]

33. Reports and reference to Tribunal

(1) Where the Commission is of the opinion that a complaint cannot be resolved by conciliation, or it has attempted to resolve the matter by conciliation but has not been successful in that attempt, it shall, after conducting and completing its investigation –

(a) prepare a report relating to the complaint, with its recommendations;

(b) send a copy of the report to the parties to whom the complaint relates; and

(c) make the report available for inspection in such manner as it thinks fit.

(2) Any of the parties may, within a period of 45 days of the date of the receipt of the report, inform the Commission whether the complaint has been resolved.
[Amended 31/11 (cio 31/12/11).]

(3) Where the Commission has been informed under subsection (2) that the complaint remains unresolved, it shall, with the consent of the complainant, refer the complaint to the Tribunal forthwith.
[Amended 31/11 (cio 31/12/11).]

(4) For the purposes of subsection (3), the complainant shall disclose to the Commission whether he has entered civil proceedings before any court seeking compensation for any act or omission arising under this Act.
[Amended 31/11 (cio 31/12/11).]

[S.33 amended by s. 4 of Act 31 of 2011 w.e.f. 31 December 2011.]

PART VII – EQUAL OPPORTUNITIES TRIBUNAL

34. Equal Opportunities Tribunal

(1) There shall be an Equal Opportunities Tribunal which shall consist of –

(a) a President, who shall be a law practitioner of not less than 10 years' standing; and

(b) 2 other persons having knowledge of or experience in law, race relations, gender affairs, employment issues, education, culture, economics, social welfare or human rights and who have been active in any of those fields for a period of not less

than 5 years or in a combination of those fields for an aggregate of not less than 5 years.

(2) The persons referred to in subsection (1) –

(a) shall be appointed by the Public Service Commission;

(b) may be appointed on a full-time or part-time basis; and

(c) shall, on their appointment, take the oath set out in Part B of the Schedule.

[Amended 37/11 (cio 31/12/11).]

(3) Where a person referred to in subsection (1) is ill or is otherwise unable to act, or where his office is vacant, the Public Service Commission may appoint another person to act in his stead during his illness, or incapacity, or until the vacancy is filled, as the case may be, provided that any such acting appointment shall not be for a period exceeding 12 months.

[S. 34 amended by s. 9 of Act 37 of 2011 w.e.f. 31/12/11.]

35. Jurisdiction of Tribunal

(1) The Tribunal shall have jurisdiction –

(a) to hear and determine complaints referred to it by the Commission;

[Amended 31/11 (cio 31/12/11).]

(b) to issue an interim order as a matter of urgency for the purpose of –

(i) preventing serious and irreparable damage to a person or category of persons;

(ii) protecting the public interest; or

(iii) preventing a person from taking any step that would hinder or impede a hearing before the Tribunal;

(c) to make –

(i) an order declaring the rights of the complainant and the respondent in relation to the act to which the complaint relates;

(ii) an order requiring the respondent to pay to the complainant, within such time as it may determine, compensation in an amount not exceeding 500,000 rupees; or

(iii) a recommendation that the respondent takes, within a specified period, action appearing to the Tribunal to be practicable for the purpose of obviating or reducing the adverse effect on the complainant of any act of discrimination to which the complaint relates; and

(d) to issue such directives as it considers necessary to ensure compliance with this Act.

(2) In making an order against, or recommendation to, an employer, the Tribunal shall take into consideration whether that employer has adopted an equal opportunity policy at the place of work and its effectiveness.

(3) Where, without reasonable justification, the respondent to a complaint fails to comply with a recommendation of the Tribunal made under subsection (1) (c) (iii), the Tribunal may, where it thinks fit –

(a) increase the amount of compensation required to be paid to the complainant in respect of the complaint by an order made under subsection (1) (c) (ii) up to an amount not exceeding 500,000 rupees; or

(b) make such order as could have been made under subsection (1) (c) (i) but was not so made.

(4) The Tribunal may make all such recommendations and, do all such things and give all such directions as appear to be right and proper for reconciling the parties.

(5) (a) The Tribunal shall not hear and determine a complaint under this Act unless the person making the complaint has voluntarily made a sworn statement, in such form as may be prescribed, that he has waived his right to initiate civil proceedings before any Court in Mauritius in respect of the facts that form the subject matter of the complaint.

(b) A waiver referred to in paragraph (a) shall constitute a bar to subsequent civil proceedings being initiated by the complainant before any Court in Mauritius in respect of the subject matter of the complaint.

(c) In this subsection, "civil proceedings" does not include an application made under section 17 or 83 of the Constitution.

[Subs. (5) repealed replaced by s. 10 of Act 37 of 2011 w.e.f. 31 December 2011.]

[S. 35 amended y s. 10 of Act 37 of 2011 w.e.f. 31 December 2011.]

36. Sittings of Tribunal

(1) The Tribunal may sit at such place and at such time as the President thinks fit.

(2) The Tribunal –

(a) shall carry out its functions with diligence;

(b) shall sit in public, unless, for good cause shown in any particular case or in relation to any specific matter, it determines otherwise;

(c) may make such orders for requiring the attendance of any person and the production of any document or exhibit as it thinks necessary or expedient;

(d) may enter and inspect any property for the purposes of inquiring into the complaint; and

(e) may summon witnesses and examine them on oath.

(3) Where the Tribunal determines that proceedings shall be conducted in private, it may order the parties, or any other person, not to disclose or publish details of the proceedings.

(4) Any person who –

(a) fails, without reasonable excuse, to attend the Tribunal after having been required to do so under subsection (2);
[Amended 31/11 (cio 31/12/11).]

(b) refuses to take an oath before the Tribunal or to answer fully and satisfactorily to the best of his knowledge and belief any question lawfully put to him in any proceedings before the Tribunal or to produce any document when required to do so by the Tribunal;

(c) knowingly gives false evidence or evidence which he knows to be misleading before the Tribunal;

(d) at any sitting of the Tribunal –

(i) insults a person referred to in section 34 (1);

(ii) interrupts the proceedings;

(e) fails to comply with an order made or directive issued by the Tribunal; or

(f) commits any other contempt of the Tribunal,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 5 years.

[Amended 31/11 (cio 31/12/11).]

[S. 36 amended y s. 11 of Act 37 of 2011 w.e.f. 31 December 2011.]

37. Staff of Tribunal

(1) The Secretary to the Cabinet shall designate a officer as Secretary to the Tribunal and such other public officers as he thinks fit to assist the Tribunal in the performance of its functions.

(2) The Secretary to the Tribunal shall be responsible for –

(a) keeping a record of the proceedings of the Tribunal;

(b) keeping in safe custody the papers and documents of the Tribunal;

(c) issuing summonses and recording statements of witnesses called before the Tribunal; and

(d) performing such other duties as the Tribunal may require.

38. Procedure of Tribunal

(1) The jurisdiction and powers of the Tribunal may be exercised by the President and at least one other person referred to in section 34 (1) (b).

(2) Where a complaint is referred to the Tribunal, the Secretary of the Tribunal shall give 14 days' notice to the complainant, and to the party against whom the complaint has been made, of the date fixed for the hearing of the matter by the Tribunal.

(3) The parties may be assisted by a barrister or an attorney.

(4) The Tribunal may order that written submissions be filed –

(a) in addition to an oral hearing; or

(b) with the consent of the parties, instead of an oral hearing being held.

(5) No evidence given in the course of conciliation proceedings under section 32 shall be admissible before the Tribunal.

(6) The Tribunal may –

(a) proceed to hear and determine a matter before it in the absence of any party who has been duly summoned to appear before the Tribunal and has failed without reasonable excuse to do so;

(b) order any person to be joined as a party to the proceedings before the Tribunal, where the Tribunal considers that such person may be affected by an order or award, or that it would be just that he be joined as a party; and

(c) generally give all such directions and do all such things as are necessary or expedient for the proper hearing and determination of the complaint before it.

39. Recovery of compensation

(1) On the expiry of the time fixed for compliance with an order for the payment of compensation under section 35 (1) (c) (ii) or section 35 (3), the amount shall become due and payable and shall be recoverable as a civil debt by the person for whose benefits the order was made.

(2) For the purpose of recovering the payment of compensation ordered by the Tribunal, the Secretary of the Tribunal shall, on expiry of the delay for lodging an appeal under section 41, or on determination of any appeal made under that section, issue a certificate stating that the amount specified is due and payable by the person specified under the order of the Tribunal or judgment on appeal, and forward such certificate to a Magistrate of the District Court of Port Louis.

(3) The Clerk of the District Court of Port Louis shall file the certificate forwarded under subsection (2) and the order shall, as from the date of filing, be of the same force and effect, and proceedings may be taken thereon and the order enforced in conformity with Part III of the District and Intermediate Courts (Civil Jurisdiction) Act, as if it had been a judgment obtained in the District Court.

(4) The District Court shall have the same control and jurisdiction over the order as it has over the judgments given by itself insofar as it relates to execution.

(5) All fees, charges and costs payable in relation to an order of the Tribunal under this section shall be recoverable in the same manner as if such fees, charges and costs for charges were compensation payable under this section.

40. Effect of order

(1) An order of the Tribunal shall be binding on –

(a) the complainant and the respondent before the Tribunal; and

(b) all persons who have been summoned to appear as parties, whether they have appeared or not.

(2) An order in any matter referred to the Tribunal for determination may be operative from such date as the Tribunal may specify in the order, having regard to all the circumstances of the case.

41. Appeal

(1) Any party dissatisfied with any order of the Tribunal may appeal to the Supreme Court on the ground that –

(a) the Tribunal had no jurisdiction in the matter, unless objection to the jurisdiction of the Tribunal was taken during the proceedings of the Tribunal;

(b) the Tribunal has exceeded its jurisdiction in the matter;

(c) the order has been obtained by fraud;

(d) any finding or decision of the Tribunal in any matter is erroneous in law; or

(e) some other specific irregularity, substantially affecting the merits of the matter, has been committed in the course of the proceedings.

(2) Any party wishing to appeal to the Supreme Court under subsection (1) shall, within 21 days of the date of the order of the Tribunal –

(a) lodge with, or send by registered post to, the Secretary of the Tribunal a written notice to that effect, stating the grounds on which the appeal is made;

(b) give written notice to the other party of his decision to appeal against the order of the Tribunal, together with the grounds of appeal; and

(c) lodge the appeal at the Registry of the Supreme Court.

(3) An appeal under this section shall be prosecuted in accordance with the Civil Appeal Act 2025.

[RR 21/25 (cio 5/1/26).]

[S. 41 amended by s. 29 of Act 21 of 2025 w.e.f. 5 January 2026.]

42. Powers of Supreme Court on appeal

(1) On the hearing of an appeal under this Act, the Supreme Court may affirm, quash, or alter any order made by the Tribunal.

(2) The Supreme Court may, where it appears to it that a fresh hearing should be held, set aside the order appealed against and remit the matter to the Tribunal for a fresh hearing to be held.

PART VIII – MISCELLANEOUS

43. Application forms

No person shall, in relation to a matter referred to in Part III or IV, request, or require another person to provide information, whether by way of completing an application form or otherwise, which would not, in the same or substantially similar circumstances, be required or requested of the person if he were of a different status.

44. Regulations

(1) The Attorney-General may make such regulations as he thinks fit for the purposes of this Act.

(2) Any regulations made under subsection (1) may provide for –

(a) the practice and procedure of the Commission and the Tribunal;

[Amended 31/11 (cio 31/12/11).]

(b) the taking of fees, levying of charges and payment of costs of proceedings; and

(c) the payment of expenses to persons ordered to attend the Tribunal.

[S.44 amended by s. 4 of Act 31 of 2011 w.e.f. 31 December 2011.]

45. Repeal

The following enactments are repealed –

(a) sections 16 and 18 (1) (b) of the Training and Employment of Disabled Persons Act;

(b) the Sex Discrimination Act.

46. Transitional provisions

(1) Notwithstanding the repeal of the Sex Discrimination Act, the persons who, immediately before the commencement of this Act, held office as Vice-Chairperson or member of the Division –

(a) shall be entitled to their salary and such other benefits arising out of their contract of employment from the coming into operation of this Act until the date of termination of their contract; and

(b) shall not be entitled to compensation for any loss of office by reason of the repeal of the enactments referred to in section 45.

(2) Any complaint received by the Division, or any inquiry started by the Division, which has not been disposed of at the commencement of this Act, shall be taken over and dealt with by the Commission.

[Amended 31/11 (cio 31/12/11).]

(3) In this section, "Division" means the Sex Discrimination Division of the National Human Rights Commission, established under the Sex Discrimination Act.

[S.46 amended by s. 4 of Act 31 of 2011 w.e.f. 31 December 2011.]

47. Commencement

This Act shall come into operation on a date to be fixed by Proclamation.

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SCHEDULE
[Section 12]

SCHEDULE
[Sections 27(1G) and 34(3)]

PART A

OATH OF OFFICE FOR CHAIRPERSON AND MEMBERS OF COMMISSION

I,……..,having been appointed as Chairperson / member* of the Equal Opportunities Commission under the Equal Opportunities Act, do swear / solemnly affirm* that I shall faithfully, impartially and to the best of my ability discharge the trust and perform the duties devolving upon me by such appointment and that I shall not without reasonable cause disclose any information imparted to me in the performance of such duties.

(s)…… Before me,

(s)……
President of the Republic

Date: ……..

* Delete as appropriate

PART B

OATH OF OFFICE FOR PRESIDENT AND MEMBERS OF TRIBUNAL

I,……..,having been appointed as President / member* of the Equal Opportunities Tribunal under the Equal Opportunities Act, do swear / solemnly affirm* that I shall, to the best of my knowledge, judgment and ability, discharge the functions of my office and do right to all manner of people after the laws and usages of Mauritius without fear or favour, affection or ill-will.

(s)…… Before me,

(s)……
President of the Republic

Date: ……..

* Delete as appropriate

[Sch. repealed and replaced by s. 12 of Act 37 of 2011 w.e.f. 31/12/11.]
