

SEX DISCRIMINATION ACT, 1975

SUMMARY OF PROVISIONS

PART I

PRELIMINARY

Section

- 1 Short title.
- 2 Commencement.
- 3 Arrangement of Act.
- 4 Interpretation.
- 5 Act binds Crown.

PART II

THE COMMISSIONER AND THE BOARD

DIVISION I—THE COMMISSIONER

- 6 The Commissioner.

DIVISION II—THE SEX DISCRIMINATION BOARD

- 7 Sex Discrimination Board.
- 8 Terms and conditions upon which members hold office.
- 9 Deputies.
- 10 Allowances and expenses.
- 11 Validity of acts of the Board, etc.
- 12 Decisions of the Board.
- 13 Proceedings before the Board.
- 14 Powers of the Board.
- 15 The Registrar.

PART III

DISCRIMINATION TO WHICH ACT APPLIES

- 16 Criteria for establishing sex discrimination.
- 17 Victimization.

PART IV

DISCRIMINATION IN EMPLOYMENT

DIVISION I—DISCRIMINATION BY EMPLOYERS

- 18 Discrimination against applicants and employees.
- 19 Discrimination against agents.
- 20 Discrimination against contract workers.

DIVISION II—DISCRIMINATION BY OTHER BODIES

- 21 Partnerships.
- 22 Trade unions, etc.
- 23 Qualifying bodies.
- 24 Employment agencies.

PART V

DISCRIMINATION IN OTHER FIELDS

DIVISION I—EDUCATION

- 25 Discrimination by educational authority.

DIVISION II—GOODS, SERVICES AND PREMISES

- 26 Discrimination in provision of goods, facilities or services.
- 27 Discrimination in relation to accommodation.

SUMMARY OF PROVISIONS—*continued*

PART VI

OTHER UNLAWFUL ACTS

Section	
28	Aiding unlawful acts.
29	Liability of employers and principals.
30	Victimization.

PART VII

GENERAL EXCEPTIONS

31	Act does not affect salary, etc.
32	Charities.
33	Sport.
34	Insurance, etc.
35	Acts done under statutory authority.
36	Exemption for religious bodies.
37	Temporary exemptions.

PART VIII

ENFORCEMENT OF THIS ACT

DIVISION I—NON-DISCRIMINATION ORDERS

38	Non-discrimination orders.
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DIVISION II—ENFORCEMENT OF PERSONAL REMEDIES

39	The making of complaints.
40	Manner in which Commissioner may deal with complaints.
41	Proceedings before Board.
42	Reasons for decision or order.
43	Appeal.

PART IX

MISCELLANEOUS

44	No further sanctions for breach of Act.
45	Discriminatory advertisements.
46	Reports.
47	Summary procedure.
48	Financial provision.
49	Regulations.

SEX DISCRIMINATION ACT, 1975¹

being

Sex Discrimination Act, 1975, No. 120 of 1975 [Assented to 4th December, 1975]¹.

An Act to render unlawful certain kinds of discrimination on the grounds of sex or marital status; to provide effective remedies against such discrimination and promote equality of opportunity between men and women generally; and to deal with other related matters.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PART I

PRELIMINARY

1. This Act may be cited as the "Sex Discrimination Act, 1975".

Short title.

2. This Act shall come into operation on a day to be fixed by proclamation¹.

Commence-
ment.

3. This Act is arranged as follows:—

Arrangement of
Act.

PART I—PRELIMINARY

PART II—THE COMMISSIONER AND THE BOARD

DIVISION I—The Commissioner

DIVISION II—The Sex Discrimination Board

PART III—DISCRIMINATION TO WHICH ACT APPLIES

PART IV—DISCRIMINATION IN EMPLOYMENT

DIVISION I—Discrimination by employers

DIVISION II—Discrimination by other bodies

PART V—DISCRIMINATION IN OTHER FIELDS

DIVISION I—Education

DIVISION II—Goods, services and premises

PART VI—OTHER UNLAWFUL ACTS

PART VII—GENERAL EXCEPTIONS

PART VIII—ENFORCEMENT OF THIS ACT

DIVISION I—Non-discrimination orders

¹ As on 3rd February, 1976, this Act had not come into operation.

DIVISION II—Enforcement of personal remedies

PART IX—MISCELLANEOUS.

Interpretation.

4. In this Act, unless the contrary intention appears—
- “the Board” means the Sex Discrimination Board established under Part II of this Act;
- “the Chairman” of the Board includes a deputy of the Chairman duly acting in the office of Chairman of the Board;
- “the Commissioner” means the person for the time being holding or acting in the office of the Commissioner for Equal Opportunity under this Act;
- “educational authority” means the person or body administering any school, college, university or other institution at which education or training is provided;
- “employment agency” means a person who, for fee or reward, introduces persons seeking employment to employers;
- “the Industrial Court” means the Industrial Court of South Australia;
- “marital status” means the status or condition of being—
- (a) single;
 - (b) married;
 - (c) married but living separately and apart from one’s spouse;
 - (d) divorced;
 - (e) widowed;
- or
- (f) cohabiting otherwise than in marriage with a person of the opposite sex;
- “member of the Board” includes a deputy of a member duly acting in his place;
- “the Minister” means the Premier or any other Minister of the Crown to whom the administration of this Act is committed and includes any Minister for the time being discharging the duties of the office of the Premier or of that other Minister;
- “near relative” of a person means his spouse, parent, child, grandparent, grandchild, brother or sister;
- “the Registrar” means the person for the time being holding or acting in the office of Registrar of the Board under this Act.

Act binds
Crown.

5. This Act binds the Crown.

PART II

PART II

THE COMMISSIONER AND THE BOARD

DIVISION I

DIVISION I—THE COMMISSIONER

The
Commissioner.

6. (1) There shall be a Commissioner for Equal Opportunity.
- (2) The Commissioner shall be appointed, and shall hold office, subject to the Public Service Act, 1967-1975.

(3) The office of the Commissioner may be held in conjunction with any other office in the public service of the State.

(4) The Governor may, subject to the Public Service Act, 1967-1975, appoint such officers as he considers necessary or expedient to assist the Commissioner in the administration of this Act.

DIVISION II—THE SEX DISCRIMINATION BOARD

DIVISION II

7. (1) There shall be a board entitled the "Sex Discrimination Board".

Sex
Discrimination
Board.

(2) The Board shall consist of—

(a) a chairman, appointed by the Governor, who shall be—

(i) a Judge of the Supreme Court;

(ii) a Judge of the Industrial Court;

(iii) a person holding judicial office under the Local and District Criminal Courts Act, 1926-1974¹;

or

(iv) a legal practitioner of not less than seven years standing;

and

(b) two other members appointed by the Governor.

8. (1) A member of the Board (including the Chairman) shall be appointed for such term of office, not exceeding three years, as the Governor determines and specifies in the instrument of his appointment, and, upon the expiration of his term of office, shall be eligible for re-appointment.

Terms and
conditions upon
which members
hold office.

(2) The Governor may remove a member of the Board (other than a member holding judicial office) from office for—

(a) mental or physical incapacity;

(b) neglect of duty;

or

(c) dishonourable conduct.

(3) The office of a member of the Board shall become vacant if—

(a) he dies;

(b) his term of office expires;

(c) he resigns by written notice addressed to the Minister;

or

(d) he is removed from office by the Governor pursuant to subsection (2) of this section.

(4) Upon the office of a member of the Board becoming vacant, a person shall be appointed, in accordance with this Act, to the vacant office, but where the office of the member becomes vacant before the expiration of the term for which he was appointed, a person appointed in his place shall be appointed only for the balance of the term of his predecessor.

9. (1) The Governor may appoint—

Deputies.

(a) a Judge of the Supreme Court;

¹ Now Local and District Criminal Courts Act, 1926-1975.

DIVISION II

(b) a Judge of the Industrial Court;

(c) a person holding judicial office under the Local and District Criminal Courts Act, 1926-1974¹;

or

(d) a legal practitioner of not less than seven years standing,

to be a deputy of the Chairman, and such a person, while acting in the absence of the Chairman, shall have all the powers, authorities, duties and obligations appertaining to the office of Chairman.

(2) The Governor may appoint a suitable person to be a deputy of a member of the Board (other than the Chairman) and such a person, while acting in the absence of that member, shall be deemed to be a member of the Board, and shall have all the powers, authorities, duties and obligations of the member of whom he has been appointed a deputy.

Allowances and expenses.

10. The members of the Board shall be entitled to receive such allowances and expenses as the Governor may from time to time determine.

Validity of acts of the Board, etc.

11. (1) An act or proceeding of the Board shall not be invalid by reason only of a defect in the appointment of a member or a vacancy in its membership.

(2) No liability shall attach to a member of the Board for any act or omission by him, or by the Board, in good faith and in the exercise, or purported exercise, of his or its powers or functions, or in the discharge, or purported discharge, of his or its duties, under this Act.

Decisions of the Board.

12. (1) The Chairman shall preside at any meeting of the Board.

(2) Subject to subsection (3) of this section, a decision in which any two members of the Board concur shall be a decision of the Board.

(3) The Chairman shall determine any question relating to the admissibility of evidence, and any other question of law or procedure.

Proceedings before the Board.

13. (1) The Board shall give to any person who is a party to proceedings before the Board—

(a) reasonable notice of the time and place at which it intends to hear those proceedings;

and

(b) reasonable opportunity to call or give evidence, examine or cross-examine witnesses, and make submissions to the Board.

(2) If a person to whom a notice has been given pursuant to subsection (1) of this section fails to attend at the time and place specified in the notice, the Board may hear the proceedings in his absence.

(3) Where, in the opinion of the Board, any person ought to be bound by, or have the benefit of, its determination, or is otherwise legitimately interested in proceedings before the Board it may—

(a) direct that he be joined as a party to the proceedings;

or

(b) grant him leave to intervene in the proceedings.

¹ Now Local and District Criminal Courts Act, 1926-1975.

(4) A person appearing in proceedings before the Board—

(a) shall be entitled to appear personally or by counsel;

or

(b) may, by leave of the Board, be represented by a person other than a legal practitioner.

(5) No person, other than a legal practitioner, shall demand or receive any fee or reward for representing a person in proceedings before the Board.

Penalty: Two hundred dollars.

14. (1) In the exercise of its powers and functions under this Act, the Board may— Powers of the Board.

(a) by summons signed on behalf of the Board by a member of the Board or the Registrar, require the attendance before the Board of any person;

(b) by summons signed on behalf of the Board by a member of the Board or the Registrar, require the production of any books, papers or documents;

(c) inspect any books, papers or documents produced before it, and retain them for such reasonable period as it thinks fit, and make copies of any of them, or of any of their contents;

(d) require any person to make oath or affirmation that he will truly answer all questions put to him by the Board relating to any matter being inquired into by the Board (which oath or affirmation may be administered by any member of the Board);

or

(e) require any person appearing before the Board, including the person whose conduct is subject to an inquiry (whether he has been summoned to appear or not) to answer any relevant questions put to him by any member of the Board, or by any other person appearing before the Board.

(2) Subject to subsection (3) of this section, if any person—

(a) who has been served with a summons to attend before the Board fails without reasonable excuse to attend in obedience to the summons;

(b) who has been served with a summons to produce any books, papers or documents, fails without reasonable excuse to comply with the summons;

(c) misbehaves before the Board, wilfully insults the Board or any member thereof, or interrupts the proceedings of the Board;

or

(d) refuses to be sworn or to affirm, or to answer any question, when required to do so by the Board,

he shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars.

(3) A person shall not be obliged to answer a question put to him under this section if the answer to that question would tend to incriminate him, or to produce any books, papers or documents if their contents would tend to incriminate him.

DIVISION II

(4) In the course of any proceedings the Board may—

(a) receive in evidence the transcript of evidence in proceedings before a court or tribunal and draw any conclusions of fact therefrom that it considers proper;

or

(b) adopt, as in its discretion it considers proper, any findings, decision or judgment of a court or tribunal that may be relevant to the proceedings.

(5) In any proceedings before the Board—

(a) the Board shall not be bound by the rules of evidence and may inform itself upon any matter in any manner it thinks fit;

and

(b) the Board shall act according to equity, good conscience and the substantial merits of the case, without regard to technicalities and legal forms.

The Registrar.

15. (1) There shall be a Registrar of the Board.

(2) The Registrar shall be appointed, and shall hold office, subject to the Public Service Act, 1967-1975.

(3) The office of the Registrar may be held in conjunction with any other office in the public service of the State.

PART III

PART III

DISCRIMINATION TO WHICH ACT APPLIES

Criteria for
establishing sex
discrimination.

16. (1) A person discriminates against another on the ground of his sex or marital status if on the ground of his sex or marital status he treats him less favourably than in identical or similar circumstances he treats or would treat a person of the opposite sex or of a different marital status.

(2) A person discriminates against another on the ground of his sex or marital status if he discriminates against him on the basis of a characteristic that appertains generally to persons of that other person's sex or marital status, or a presumed characteristic that is generally imputed to persons of that sex or marital status.

(3) A person discriminates against another on the ground of his sex or marital status if he discriminates against him by reason of the fact that he does not comply, or is not able to comply, with a requirement and—

(a) the nature of the requirement is such that a substantially higher proportion of persons of a sex or marital status, other than that of the person discriminated against, complies or is able to comply with the requirement than of those whose sex or marital status is the same as the sex or marital status of that person;

and

(b) the requirement is not reasonable in the circumstances of the case.

(4) A person shall not be regarded as discriminating against men on the ground of their sex by reason only of the fact that he grants to women any rights or privileges in connection with pregnancy or childbirth.

17. (1) A person commits an act of victimization if he discriminates in any manner against another ("the person victimized") on the ground that he has—

- (a) brought proceedings against him under this Act;
 - (b) given evidence or information in connection with proceedings brought by any person against him under this Act;
 - (c) otherwise done anything under or by reference to this Act;
- or
- (d) has reasonably asserted his rights or the rights of some other person under this Act,

or by reason of the fact that he knows the person victimized intends to do any of those things, or suspects the person victimized has done, or intends to do, any of them.

(2) Discrimination against a person on the ground that—

- (a) he has made a false allegation;
- or
- (b) he has not acted in good faith,

does not constitute an act of victimization.

PART IV

PART IV

DISCRIMINATION IN EMPLOYMENT

DIVISION I—DISCRIMINATION BY EMPLOYERS

DIVISION I

18. (1) It is unlawful for an employer to discriminate against a person on the ground of his sex or marital status—

Discrimination
against
applicants and
employees.

- (a) in determining who should be offered employment;
- or
- (b) in the terms on which he offers employment.

(2) It is unlawful for an employer to discriminate against an employee on the ground of his sex or marital status—

- (a) by denying him access, or limiting his access, to opportunities for promotion, transfer or training, or to any other benefits connected with employment;

or

- (b) by dismissing him, or subjecting him to any other detriment.

(3) This section does not apply to employment—

- (a) within a private household;
- or
- (b) where the number of persons employed by the employer does not exceed five (disregarding any persons employed within his private household).

DIVISION I

(4) For the purposes of paragraph (b) of subsection (3) of this section—

(a) a person shall be regarded as the employer of the employees of a body corporate in which he holds a controlling interest;

and

(b) a body corporate shall be regarded as the employer of the employees of any other body corporate that is, for the purposes of the Companies Act, 1962-1973¹, related to that body corporate.

(5) This section does not apply to discrimination on the ground of sex in relation to employment for which sex is a genuine occupational qualification.

Discrimination
against agents.

19. (1) This section applies to a person ("the principal") for whom work is done by agents remunerated by commission.

(2) It is unlawful for the principal to discriminate against a person on the ground of his sex or marital status—

(a) in determining who should be engaged as an agent;

or

(b) in the terms on which he engages him as an agent.

(3) It is unlawful for the principal to discriminate against an agent on the ground of his sex or marital status—

(a) by denying him access, or limiting his access, to opportunities for promotion, transfer or training or any other benefits connected to his position as an agent;

or

(b) by terminating his engagement, or subjecting him to any other detriment.

Discrimination
against contract
workers.

20. (1) This section applies to a person ("the principal") for whom work is done by persons ("contract workers") in pursuance of a contract between the principal and the employer of those contract workers.

(2) It is unlawful for the principal to discriminate against a contract worker on the ground of his sex or marital status—

(a) by denying him access, or limiting his access, to any benefit connected with employment;

or

(b) by subjecting him to any other detriment.

DIVISION II

DIVISION II—DISCRIMINATION BY OTHER BODIES

Partnerships.

21. (1) It is unlawful for a firm consisting of six or more partners, or for six or more persons jointly promoting the formation of a firm, to discriminate against a person on the ground of his sex or marital status—

(a) in determining who should be offered a position as partner in the firm;

or

(b) in the terms on which that person is offered a position as partner in the firm.

¹ Now Companies Act, 1962-1974.

(2) It is unlawful for a firm consisting of six or more partners to discriminate against a partner on the ground of his sex or marital status—

(a) by denying him access, or limiting his access, to any benefit arising from membership of the firm;

or

(b) by expelling him from the firm or subjecting him to any other detriment.

22. (1) This section applies to an organization of employees, an organization of employers, or any other organization established for the purposes of members who carry on a particular profession or trade. Trade unions, etc.

(2) It is unlawful for an organization to which this section applies to discriminate against a person who is not a member of the organization on the ground of his sex or marital status—

(a) by refusing, or failing to accept, his application for membership;

or

(b) in the terms on which it admits him to membership.

(3) It is unlawful for an organization to which this section applies to discriminate against a person who is a member of the organization on the ground of his sex or marital status—

(a) by denying him access, or limiting his access, to any benefit provided by the organization;

(b) by depriving him of membership, or varying the terms of his membership;

or

(c) by subjecting him to any other detriment.

23. It is unlawful for an authority or body empowered to confer an authorization or qualification that is needed for, or facilitates, the practice of a profession, or the carrying on of a trade, to discriminate against a person on the ground of his sex or marital status— Qualifying bodies.

(a) by refusing, or failing, to confer that authorization or qualification;

(b) in the terms on which it confers the authorization or qualification;

or

(c) by withdrawing the authorization or qualification, or varying the terms or conditions upon which it is held.

24. It is unlawful for an employment agency to discriminate against a person on the ground of his sex or marital status— Employment agencies.

(a) by denying him any of its services;

or

(b) in the terms on which it provides its services.

PART V

PART V

DISCRIMINATION IN OTHER FIELDS

DIVISION I

DIVISION I—EDUCATION

Discrimination
by educational
authority.

25. (1) It is unlawful for an educational authority to discriminate against a person on the ground of his sex or marital status—

(a) by refusing, or failing, to accept his application for admission as a student;

or

(b) in the terms on which it admits him as a student.

(2) It is unlawful for an educational authority to discriminate against a student on the ground of his sex or marital status—

(a) by denying him access, or limiting his access, to any benefit provided by the authority;

or

(b) by expelling him or subjecting him to any other detriment.

(3) This section does not apply to discrimination on the ground of sex in respect of admission to any school, college or institution established wholly or mainly for students of the one sex.

DIVISION II

DIVISION II—GOODS, SERVICES AND PREMISES

Discrimination
in provision of
goods, facilities
or services.

26. (1) It is unlawful for a person who offers or provides—

(a) goods;

or

(b) services to which this section applies,

(whether for payment or not) to the public, or a section of the public, to discriminate against a person on the ground of his sex or marital status—

(c) by refusing to supply the goods or perform the services;

or

(d) in the terms on which he supplies the goods or performs the services.

(2) The following are the services to which this section applies:—

(a) access to and use of any place that members of the public are permitted to enter;

(b) banking, the provision of credit, or insurance;

(c) entertainment, recreation or refreshment;

(d) services connected with transportation or travel;

(e) services of any profession or trade;

(f) services provided by any public authority or municipal or district council.

(3) Where the nature of a skill varies according to whether it is exercised in relation to men or women, a person does not contravene subsection (1) of this section by exercising the skill in relation to men only, or women only, in accordance with his normal practice.

27. (1) It is unlawful for a person to discriminate against a person on the ground of his sex or marital status—

Discrimination in relation to accommodation.

(a) in the terms on which he offers him accommodation;

(b) by refusing his application for accommodation;

or

(c) by deferring his application, or according him a lower order of precedence on any list of applicants for that accommodation.

(2) It is unlawful for a person to discriminate against a person for whom accommodation has been provided on the ground of his sex or marital status—

(a) by denying him access, or limiting his access, to any benefit connected with the accommodation;

or

(b) by evicting him, or subjecting him to any other detriment.

(3) This section does not apply to the provision of accommodation if—

(a) the person who provides, or proposes to provide, the accommodation, or a near relative of that person, resides, and intends to continue to reside, on the premises;

and

(b) accommodation is provided on the premises for no more than six persons apart from that person and his family.

PART VI

PART VI

OTHER UNLAWFUL ACTS

28. Where a person causes, instructs, induces or aids another to act in contravention of this Act, both shall be jointly and severally liable to any criminal or civil liability arising under this Act in respect of the contravention.

Aiding unlawful acts.

29. (1) Subject to subsection (2) of this section, where a person acts on behalf of another either as his agent or employee, the person by whom the act is committed and the person on behalf of whom the act is committed shall be jointly and severally liable to any criminal or civil liability arising under this Act in respect thereof.

Liability of employers and principals.

(2) In proceedings brought under this Act against any person in respect of an act alleged to have been committed by a person acting on his behalf it shall be a defence for that person to prove that he took reasonable precautions to ensure that the person acting on his behalf would not act in contravention of this Act.

30. It is unlawful for a person to commit an act of victimization.

Victimization.

PART VII

PART VII

GENERAL EXCEPTIONS

Act does not
affect salary,
etc.

31. This Act does not affect discriminatory rates of salary, wages, or other remuneration.

Charities.

32. This Act does not —

(a) affect a provision contained in a charitable instrument for conferring benefits wholly or mainly on persons of the one sex;

or

(b) render unlawful an act which is done in order to give effect to such a provision.

Sport.

33. This Act does not render unlawful the exclusion of persons of the one sex from participation in any competitive sporting activity in which the strength, stamina or physique of the competitor is relevant.

Insurance, etc.

34. (1) This Act does not render unlawful discrimination on the ground of sex affecting the terms on which an annuity, life assurance policy, accident insurance policy or other policy of insurance is offered or may be obtained, where the discrimination—

(a) is based upon actuarial or statistical data from a source on which it is reasonable to rely;

and

(b) is reasonable having regard to the data and any other relevant factors.

(2) This Act does not render unlawful discrimination on the ground of sex or marital status in the terms or conditions appertaining to a superannuation or provident fund or scheme.

Acts done
under statutory
authority.

35. This Act does not render unlawful any act done by a person if it was necessary for him to do it in order to comply with a provision of—

(a) an order of the Board;

(b) any other Act;

or

(c) an instrument made or approved by or under any other Act.

Exemption for
religious bodies.

36. This Act does not apply to—

(a) the ordination or appointment of priests, ministers of religion or members of any religious order;

(b) the training or education of persons seeking ordination or appointment as priests, ministers of religion, or members of a religious order;

or

(c) any other practice of a body established to propagate religion that conforms with the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion.

37. (1) The Board may, by notice published in the *Gazette*, grant exemptions from any of the provisions of this Act in relation to—

Temporary exemptions.

- (a) a person, or class of persons;
- (b) an activity, or class of activity;
- or
- (c) any circumstances of a specified nature.

(2) An exemption under this section shall remain in force for a period, not exceeding three years, specified in the notice but may be renewed from time to time by the Board for a successive period not exceeding three years.

PART VIII

PART VIII

ENFORCEMENT OF THIS ACT

DIVISION I—NON-DISCRIMINATION ORDERS

DIVISION I

38. (1) The Board may, of its own motion, or on the application of the Commissioner, hold an inquiry to determine whether a person has contravened or is contravening any provision of this Act.

Non-discrimination orders.

(2) The Board may, for the purposes of an inquiry under this section—

- (a) instruct the Commissioner;
- or
- (b) engage some other suitable person,

to conduct an investigation that will, in the opinion of the Board, assist it to resolve the matters subject to the inquiry.

(3) Where, after holding an inquiry under this section, the Board is satisfied that a person has in fact contravened a provision of this Act, it may—

- (a) make an order requiring him to refrain from acting in contravention of this Act;

or

- (b) make an order that he perform any acts specified in the order with a view to eliminating future contravention of this Act, or redressing circumstances that have arisen from contravention of this Act.

(4) Where the Board is satisfied that two or more persons are engaged in a discriminatory practice of substantially the same nature, a single inquiry may be held in relation to both or all of those persons.

(5) A person who contravenes, or fails to comply with, an order under this section, shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars.

DIVISION II—ENFORCEMENT OF PERSONAL REMEDIES

DIVISION II

39. (1) A person who claims that some other person has discriminated against him, or committed an act of victimization against him, in contravention

The making of complaints.

of a provision of this Act, may lodge a written complaint setting out details of the alleged act of discrimination or victimization—

(a) with the Commissioner;

or

(b) with the Registrar.

(2) A complaint must be lodged within six months after the date on which the act of discrimination or victimization the subject of the complaint is alleged to have been committed.

Manner in
which
Commissioner
may deal with
complaint.

40. (1) Where in the opinion of the Commissioner a complaint that has been lodged with him is frivolous, vexatious, misconceived or lacking in substance, the Commissioner may, by notice in writing addressed to the complainant, decline to entertain the complaint.

(2) Where the Commissioner is of the opinion that the subject matter of the complaint (other than a complaint that he has declined to entertain) may be resolved by conciliation, he shall make all reasonable endeavours to resolve the matter by conciliation.

(3) The Commissioner may, by instrument in writing, require the person who is alleged to have committed the act of discrimination or victimization to attend before him for the purpose of discussing the subject matter of the complaint.

(4) A person who refuses or fails to comply with a requirement of the Commissioner under this section shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars.

(5) Where the Commissioner—

(a) is of the opinion that the subject matter of a complaint cannot be resolved by conciliation;

(b) has attempted to resolve the matter by conciliation but has not been successful in that attempt;

or

(c) has declined to entertain a complaint and the complainant has, by notice in writing, required him to refer the complaint to the Board,

he shall refer the complaint to the Board.

(6) Where any complaint is referred to the Board (other than a complaint so referred in pursuance of paragraph (c) of subsection (5) of this section) the Commissioner shall, if the complainant requests him to do so, either personally, or by counsel or representative, assist the complainant in the presentation of his case to the Board.

(7) Evidence of anything said or done in the course of conciliation proceedings under this section shall not be admissible in subsequent proceedings under this Act relating to the complaint.

Proceedings
before Board.

41. (1) Where a complaint—

(a) has been lodged with the Registrar;

or

(b) has been referred by the Commissioner to the Board,

the Board shall proceed to hear and determine the complaint.

(2) The Board, after hearing any evidence and representations that the complainant and the respondent desire to adduce or make, may exercise any of the following powers:—

- (a) it may order the respondent to pay to the complainant such damages as it thinks fit to compensate the complainant for loss or damage suffered by him in consequence of the act of discrimination or victimization;
- (b) it may order the respondent to refrain from committing any further act of discrimination or victimization against the complainant;
- (c) it may order the respondent to perform any acts specified in the order with a view to redressing any loss or damage suffered by the complainant as a result of the act of discrimination or victimization;
- (d) it may order that the complaint be dismissed.

(3) The Board may, at any stage of proceedings under this section, make an interim order to prevent a party to the proceedings from acting in a manner prejudicial to any decision or order that the Board might subsequently make.

(4) The damage for which a complainant may be compensated under subsection (2) of this section includes injury to his feelings.

(5) A person who contravenes or fails to comply with an order under this section shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars.

(6) Where—

- (a) the Commissioner is required by a complainant to refer a complaint to the Board;

or

- (b) a complaint is lodged by a complainant with the Registrar,

and the Board after hearing the complaint considers that it is frivolous, vexatious, misconceived or lacking in substance, it may order the complainant to pay to the respondent a sum fixed by the Board to compensate him for the cost, time and trouble expended by him in relation to the proceedings before the Board.

(7) Any amount that a person is ordered to pay under subsection (6) of this section may be recovered from him as a debt.

42. The Board shall, if so required by any party to proceedings under this Part, state its reasons for any decision or order that it makes in those proceedings. Reasons for decision or order.

43. (1) A right of appeal shall lie to the appropriate appellate court against any decision or order of the Board made in proceedings under this Part. Appeal.

(2) An appeal must be instituted within one month of the making of the decision or order appealed against.

(3) The appellate court may, on the hearing of the appeal, exercise one or more of the following powers:—

- (a) affirm, vary or quash the decision or order appealed against, or substitute, or make in addition, any decision or order that should have been made in the first instance;

PART VIII

DIVISION II

(b) remit the subject matter of the appeal to the Board for further hearing or consideration or for re-hearing;

(c) make any order as to costs or any other matter that the justice of the case requires.

(4) If the reasons of the Board are not given in writing at the time of the making of a decision or order, and the appellant then requested the Board to state its reasons in writing, the time for instituting the appeal shall run from the time when the appellant receives the written statement of those reasons.

(5) In this section—

“the appropriate appellate court” means—

(a) in relation to proceedings under Part V of this Act—the Full Court of the Supreme Court;

and

(b) in relation to any other proceedings under this Act—the Full Court of the Industrial Court.

PART IX

PART IX

MISCELLANEOUS

No further sanctions for breach of Act.

44. A contravention of this Act shall attract no sanction or consequence (whether criminal or civil) except to the extent expressly provided by this Act.

Discriminatory advertisements.

45. (1) A person shall not publish or cause to be published an advertisement that indicates an intention to do any act that is unlawful by virtue of this Act.

Penalty: One thousand dollars.

(2) In any proceedings for an offence against subsection (1) of this section, it shall be a defence for a person who published an advertisement in contravention of that subsection to prove that he believed on reasonable grounds that the publication of the advertisement would not contravene that subsection.

Reports.

46. (1) The Commissioner shall undertake a review of the legislation of this State with a view to identifying provisions that improperly discriminate in substance or effect against persons on the ground of their sex or marital status.

(2) The Commissioner shall, on or before the thirtieth day of September in each year, prepare and present to the Minister—

(a) a report on the administration of this Act during the period of twelve months ending on the preceding thirtieth day of June;

and

(b) a report upon the research undertaken by him during that period under subsection (1) of this section and any recommendations that he considers appropriate for the elimination or modification of discriminatory legislative provisions.

(3) The Minister shall as soon as practicable after receiving a report under this section cause copies of the report to be laid before both Houses of Parliament.

47. Proceedings for an offence against this Act shall be disposed of summarily. Summary procedure.

48. The moneys required for the purposes of this Act shall be paid out of moneys provided for those purposes. Financial provision.

49. (1) The Governor may make such regulations as are necessary or expedient for the purposes of this Act. Regulations.

(2) Without limiting the generality of subsection (1) of this section, those regulations may—

- (a) prescribe any form for the purposes of this Act;
 - (b) regulate the practice and procedure of the Board;
 - (c) prescribe a penalty not exceeding two hundred dollars for breach of, or non-compliance with, any regulation.
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