

**A BILL
ENTITLED**

AN ACT to make provision for the prevention of sexual harassment and for connected matters.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:-

PART I. *Preliminary*

Short title and commencement.

1. This Act may be cited as the Sexual Harassment Act, 2015, and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*.

Interpretation.

2. – (1) In this Act, unless the context otherwise requires –

“accommodation” includes residential and business accommodation

“complainant” means a person who makes a complaint or institutes civil proceedings by way of a claim under this Act;

“complaint” means a complaint made under section 11(1);

“correctional institution” has the meaning assigned to it in section 2 of the *Corrections Act*;

“Court” means the Resident Magistrate’s Court;

“co-worker” in relation to a worker, means another person who is employed by the employer of the worker;

“domestic worker” means a worker who performs work in a household on a professional or occupational basis;

“employer” means a person who engages, in any form, a worker;

“employment” includes any form of engagement of a worker;

“inquiry” means an inquiry conducted by the Tribunal under Part IV;

“institution” includes -

- (a) a school, college, university and other place of learning or training;
- (b) a correctional institution or lock-up within the meaning of section 2 of the *Corrections Act*;
- (c) a place of safety within the meaning of section 2 of the *Child Care and Protection Act*;
- (d) any other place for the custody of minors;
- (e) a nursing home within the meaning of section 2 of the *Nursing Homes Registration Act*;
- (f) any other place for the custody of the elderly;
- (g) a medical facility and psychiatric facility;
- (h) a place for the use of any facility by members of any organization; and
- (i) such other place or facility as the Minister may, by order published in the *Gazette*, designate as an institution for the purpose of this Act;

“psychiatric facility” has the meaning assigned to it in section 2 of the *Mental Health Act*;

“respondent”, in relation to a claim or a complaint, means the person who is alleged to have committed the act to which the claim or complaint relates;

“sexual advance” means any one or more of the following acts, forms of conduct or behaviour, namely –

- (a) physical contact of a sexual nature;
- (b) a demand or request for sex or for favours of a sexual

nature;

- (c) the making of sexually-coloured remarks, or sexual advances, sexual suggestions or sexual innuendos;
- (d) the showing of pornography or the display of images or objects of a sexual nature; and
- (e) any other physical, gestural, verbal, non-verbal or visual conduct of a sexual nature;

“sexual harassment” means the making of any sexual advance towards a person, by another person, which is reasonably regarded as unwelcome, offensive or humiliating by the person towards whom the sexual advance is made; and references to the term “sexually harass” shall be construed accordingly;

“supervisor” in relation to worker, means a co-worker who, by virtue of the co-worker’s employment, is in a position of authority over that worker;

“Tribunal” means the Sexual Harassment Division of the Industrial Disputes Tribunal constituted under section 8 of the *Labour Relations and Industrial Disputes Act*;

“worker” means a person who carries out work in any capacity for a person conducting a business or undertaking, including work as -

- (a) an employee, whether in the private or public sector;
- (b) a domestic worker;
- (c) a person engaged under a contract for services, or a subcontractor of that person;
- (d) an employee of a person or subcontractor referred to

in paragraph (c);

- (e) a person whose service is procured or arranged by a company which is in the business of supplying workers for other businesses, and who has been assigned to work in the business or undertaking;
- (f) an apprentice, a trainee or an intern;
- (g) a student gaining work experience;
- (h) a volunteer;
- (i) a person of a class prescribed by the Minister for the purposes of this definition, after consultation with the Minister with responsibility for labour.

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

(3) In order to determine whether any act, conduct or behaviour constitutes sexual harassment –

- (a) all of the circumstances surrounding the act, conduct or behaviour shall be taken into consideration;
- (b) it shall be considered whether the act, conduct or behaviour constituted a course of conduct or, if not, was a significant single instance sufficiently serious to be so determined; and
- (c) the determination shall be based on the findings in the particular case.

PART II. *Prevention of Sexual Harassment*

Duty to ensure

3. – (1) An employer shall make every reasonable effort to ensure

environment free of sexual harassment.

that his workers are not sexually harassed in the course of their employment.

(2) A person who is in charge of an institution shall make every reasonable effort to ensure that the students, residents, wards, inmates, patients or members, as the case may be, of that institution, are not sexually harassed.

Duty of employer and person in charge of institution to issue policy statement.

4. – (1) Subject to subsection (4), every employer –

- (a) shall, in relation to his business or undertaking, issue a policy statement in writing concerning the prevention of sexual harassment in the business or undertaking and the protection of the workers in the business or undertaking from sexual harassment; and
- (b) shall take such steps as are reasonably required to bring the policy statement mentioned in paragraph (a) to the attention of his workers.

(2) Every person in charge of an institution –

- (a) shall, in relation to that institution, issue a policy statement concerning the prevention of sexual harassment in the institution, and the protection of the students, residents, wards, inmates, patients or members, as the case may be, of that institution from sexual harassment; and
- (b) shall take such steps as are reasonably required to bring the policy statement to the attention of the students, residents, wards, inmates, patients or members, as the case may be, of that institution.

(3) The policy statement required under this section shall

provide for the following –

- (a) a definition of sexual harassment which is consistent with the provisions of this Act;
- (b) a statement to the effect that –
 - (i) workers; or
 - (ii) students, residents, wards, inmates, patients or members, as the case may be, at or of the institution, are entitled to an environment that is free of sexual harassment;
- (c) a statement to the effect that disciplinary measures, as are appropriate, may be taken against any person under the direction of the employer, or the person in charge of the institution, who subjects any worker, student, resident, ward, inmate, patient or member, as the case may be, to sexual harassment;
- (d) the internal mechanisms and procedures that are available to a worker, a student, a resident, a ward, an inmate, a patient or a member, as the case may be, for the making of any complaint relating to sexual harassment and the resolution and settlement of the complaints;
- (e) a statement explaining the disciplinary measures that may be taken in respect of sexual harassment;
- (f) a statement to the effect that the employer, or person in charge of the institution, shall not disclose any information relating to a complainant or the circumstances of a complaint to any person, except where the disclosure is necessary for the purposes of investigating the complaint or taking disciplinary

action in relation to the complaint;

- (g) a statement informing the workers, students, residents, wards, inmates, patients or members, as the case may be, of their right to seek redress from the Tribunal or the Court, where applicable, under this Act; and
- (h) a statement to the effect that a person who is a victim of sexual harassment shall exhaust all internal mechanisms and procedures that are available to the person, before making a complaint to the Tribunal or instituting proceedings before the Court, as the case may be.

(4) Subsection (1) shall not apply to an employer with less than twenty workers, or such number of workers as the Minister with responsibility for labour may prescribe, by order published in the *Gazette*.

Duty of employer to take action to deal with sexual harassment.

5. – (1) An employer shall take immediate and appropriate action to deal with the sexual harassment of his worker, where the employer becomes aware of the sexual harassment.

(2) An employer who fails to take immediate and appropriate action under subsection (1) shall be liable for the failure to act, and a worker who is aggrieved by the failure of the employer so to act, may make a complaint in respect thereof to the Tribunal.

Duty of person in charge of an institution to take action to deal with sexual harassment.

6. – (1) A person in charge of an institution shall take immediate and appropriate action to deal with the sexual harassment of any student, resident, inmate, ward, patient or member, as the case may be, where the person in charge of the institution becomes aware of the sexual harassment.

(2) A person in charge of an institution who fails to take immediate and appropriate action under subsection (1), shall be liable for the failure to act, and a student, a resident, a ward, an inmate, a patient or a member, as the case may be, who is aggrieved by the failure of the person in charge of the institution so to act, may institute civil proceedings in respect thereof before the Court.

PART III. *Forms of Sexual Harassment and Related Prohibited Conduct*

Sexual harassment by an employer, supervisor or co-worker.

7. – (1) An employer or a supervisor shall not sexually harass a worker.

(2) An employer or supervisor shall not make it appear to a worker that the prospects or working conditions of that worker are contingent upon the worker's acceptance or tolerance of sexual advances from the employer or supervisor.

(3) A worker shall not sexually harass a co-worker.

(4) A prospective employer shall not sexually harass a person who is seeking employment.

(5) A prospective employer shall not make it appear to a person seeking employment that –

- (a) the offer of employment to that person; or
- (b) the terms on which employment is offered,

are contingent on that person's acceptance of or submission to sexual advances from the prospective employer.

(6) An employer shall not take any action which adversely affects the opportunities, terms and working conditions of a worker who has instituted proceedings by way of a complaint or claim under this Act, or who has given testimony or otherwise participated in any

investigation, procedure, inquiry or hearing initiated under this Act.

Sexual harassment at an institution.

8. – (1) A person who is a member of staff or in a position of authority at an institution shall not sexually harass a person who is a student, a resident, a ward, an inmate, a patient or a member, as the case may be, at or of the institution or who is seeking admission to the institution.

(2) A person who is a member of staff or in a position of authority at an institution shall not make it appear to any other person that any preferential treatment or other advantage at the institution is contingent upon the other person's acceptance of or submission to sexual advances from the first mentioned person.

(3) A person who is a member of staff or in a position of authority at an institution shall not take any action which adversely affects the facilities or other opportunities available to a student, a resident, a ward, an inmate, a patient or a member, as the case may be, at or of the institution who has instituted proceedings by way of a claim under this Act, or who has given testimony or otherwise participated in any investigation, procedure or hearing initiated under this Act.

Sexual harassment in relation to accommodation.

9. – (1) A person shall not sexually harass another person in the course of providing or offering to provide (whether as principal or agent) accommodation to that other person.

(2) A person shall not, in the course of providing or offering to provide (whether as principal or agent) accommodation to another person, make it appear to the other person that –

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

- (b) any preferential treatment or advantage in relation to the acceptance and processing of an application for accommodation;
- (c) any advantage in relation to the pricing of, or the access or the extent of access to any benefit connected with, the accommodation; or
- (d) the failure to evict the other person or to subject that other person to any detrimental treatment in relation to the accommodation,

is contingent upon the other person's acceptance of or submission to sexual advances from the first mentioned person.

PART IV. Designation of Authorized Officer

Designation of authorized officers.

10. – (1) The Minister with responsibility for labour may designate persons, being labour officers under the *Labour Officers (Powers) Act*, as authorized officers, for the purposes of investigating and securing the proper observance of sections 3 and 4.

(2) An authorized officer shall be furnished with a certificate of designation and shall, if required to do so, while conducting an investigation, produce the certificate of designation to a person who is the subject of an investigation under this Act.

(3) An authorized officer, on finding that a person is not in compliance with section 3 or 4, may issue a direction setting out what the person is required to do in order to become compliant, and the time (not being less than thirty days) within which the person shall comply with the direction.

(4) A person who, without reasonable excuse, fails to comply

with a direction under subsection (3), commits an offence and is liable on summary conviction in the Resident Magistrate's Court to a fine not exceeding fifty thousand dollars.

PART V. *Complaints and other Claims*

Jurisdiction to hear complaints.

11. – (1) Subject to the provisions of this Part, the Tribunal may hear –

- (a) a complaint made by a worker that the worker's employer has failed to act in accordance with section 5(1); or
- (b) a complaint made by a person arising under section 7.

(2) Subject to the provisions of this Part, the Court may hear –

- (a) a claim instituted by a student, a resident, a ward, an inmate, a patient or a member, as the case may be, of an institution, that the person in charge of the institution has failed to act in accordance with section 6(1); or
- (b) a claim instituted by a person arising under section 7, 8 or 9.

(3) A complaint or a claim referred to in subsection (1) or (2)

shall be made or instituted within a period of twelve months from the date of the alleged failure or contravention to which the complaint or claim relates, or, in the case of a course of conduct comprised of a series of alleged acts, within a period of twelve months from the date of the last alleged act.

Making of complaint or instituting of civil proceedings.

12. – (1) A person who alleges that a contravention of section 5(1) or 7 has been committed against the person may, subject to subsection (3), make a complaint in writing, in the prescribed manner, to the Tribunal.

(2) A person who alleges that a contravention of section 6(1), 7, 8 or 9 has been committed against the person may, subject to

subsection (3), institute civil proceedings before the Court.

(3) A person shall, before making a complaint under subsection (1) or instituting proceedings under subsection (2), exhaust the use of any internal mechanisms and procedures that are made available to the person, as provided for in the policy statement issued by the employer or the person in charge of the institution, as the case may be, in accordance with section 4(3)(d).

(4) The Tribunal, in the case of subsection (1), or the Court, in the case of subsection (2), may grant leave to a person to make a complaint to the Tribunal or to institute proceedings before the Court, as the case may be, in the circumstances provided in subsection (5), notwithstanding that subsection (3) has not been complied with.

(5) The circumstances referred to in subsection (4) are that the Tribunal or the Court, as the case may be, is satisfied that the person has –

- (a) shown cause as to why the person reasonably believes that the person's rights may be prejudiced if the person were to comply with subsection (3); or
- (b) provided evidence to show that no internal mechanisms and procedures, or no adequate internal mechanisms and procedures, have been made available to the person as is required under section 4(3)(d).

**Particulars
of complaint
not to be
communi-
cated.**

13. – Where a complaint or a claim referred to in section 11 has been filed before the Tribunal or the Court, as the case may be, any person having any official duty or being employed in the administration of this Act shall not, unless the Tribunal or Court, as the case may be, so

permits, divulge or communicate any particulars of the complaint or claim to any other person, until –

- (a) the Tribunal or Court has commenced an inquiry or a hearing in relation to the complaint or claim; or
- (b) the Tribunal or Court decides not to hold the inquiry or hearing, or discontinues the inquiry or hearing, in accordance with this Act.

PART VI. Procedure of Tribunal for Hearing Complaint

Inquiries by Tribunal.

14. – (1) Subject to subsection (2), the Tribunal shall conduct an inquiry into a complaint made under this Act.

(2) The Tribunal shall not conduct an inquiry or shall discontinue an inquiry, if –

- (a) the Tribunal receives notice that the complainant does not wish the inquiry to be held or to be continued; or
- (b) the Tribunal is of the opinion that the complaint is frivolous vexatious, misconceived or lacking in substance.

(3) The Tribunal –

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

Evidence before Tribunal.

15. The Tribunal may take evidence on oath or affirmation for the purpose of the inquiry.

**Attendance
at inquiry.**

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

(2) Directions under subsection (1) maybe given to –

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

(3) The Tribunal may, in a notice under subsection (1), require the person to produce any document specified in the notice.

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

**Right to
representation.**

17. A party to an inquiry may be represented by an attorney-at-law or any other person, or may elect to be self-represented.

**Tribunal
may prohibit
publication
of evidence,
etc.**

18. – (1) In the interest of the administration of justice, public safety, public order or public morality, the Tribunal conducting an inquiry in the exercise of its jurisdiction under this Act may direct that

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- (a) the name, identity, and address of any person shall be protected in the manner specified by the Tribunal;
- (b) in relation to a witness called or appearing before the Tribunal, the name, identity, and address of the witness and such other

particulars concerning the witness, as in the opinion of the Tribunal shall be kept confidential, shall not be published; or

- (c) no particulars of a complaint shall be published without the prior written approval of the Tribunal.

(2) A person shall not publish any information in contravention of a direction under subsection (1).

Award of Tribunal.

19. – (1) After holding an inquiry, the Tribunal may –

- (a) dismiss the complaint;
- (b) find in favour of the complainant and make a determination, which may include any one or more of the following awards—
- (i) a declaration that that the respondent has engaged in conduct amounting to a contravention of section 5(1) or section 7, as the case may be, in the manner specified in the declaration, and should not repeat or continue the conduct;
 - (ii) a direction that the respondent should perform any reasonable act or course of conduct to redress any loss or damage suffered by the complainant;
 - (iii) a direction that the respondent should employ or re-employ the complainant;
 - (iv) a direction that the respondent should pay to the complainant damages by way of compensation for any loss or damage suffered by reason of the conduct of the respondent;
 - (v) a direction that the respondent should promote the complainant;

- (vi) a direction that the termination of a contract or agreement should be varied to redress any loss or damage suffered by the complainant;
 - (vii) a direction that the employer concerned should take such action, within such time, as the Tribunal may direct to ensure that the conduct referred to in paragraph (b)(i) ceases, and to report to the Tribunal on the action taken;
 - (viii) a declaration that it would be inappropriate for any further action to be taken on the matter; or
- (c) make such other award as may be appropriate in relation to the complaint.

(2) The Tribunal may, in the making of an award under subsection (1) (b), take into consideration injury to the complainant's feelings, or humiliation suffered by the complainant.

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

(4) A respondent who fails to comply with an award of the Tribunal commits an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding fine hundred thousand dollars or, in default of payment thereof, to a term of imprisonment not exceeding one month.

PART VII. *Procedure of Court for Hearing Complaint*

20. – (1) Civil proceedings pursuant to section 12(2) may be

**Hearing
by Court.**

instituted in like manner as a claim in tort, and shall be brought in a Resident Magistrate's Court.

(2) The Court –

- (a) may endeavour, by such means as it considers reasonable, to resolve a claim instituted under this Act; or
- (b) shall take all steps as it considers reasonable, to effect an amicable settlement of a claim, and for this purpose may adjourn a hearing at any stage to enable the parties to negotiate with a view to settlement by amicable arrangements.

Evidence by Court.

21. The Court may decide not to conduct a hearing in relation to a claim, where –

- (a) the Court reasonably believes that the complainant does not wish that the inquiry be made or continued; or
- (b) the Court is of the opinion that the claim is frivolous, vexatious, misconceived or lacking in substance.

Determination by Court.

22. – (1) After conducting a hearing in relation to a claim, the Court may –

- (a) dismiss the claim; or
- (b) find in favour of the complainant and make any one or more of the orders set out in subsection (2).

(2) For the purpose of subsection (1)(b), the Court may make any one or more of the following orders –

- (a) a declaration that the respondent has engaged in conduct amounting to a contravention of section 6(1), 7, 8 or 9, as the case may be, in the manner specified in the declaration, and should not repeat or continue the conduct;

- (b) that the respondent should perform any reasonable act or course of conduct to redress any loss or damage suffered by the complainant;
- (c) that an order be made to bind-over the respondent for a period of time, and any repetition of the conduct during his binding over period shall constitute contempt of the court;
- (d) that the respondent desist in continuing the act in question;
- (e) that the respondent pay to the complainant damages by way of compensation for any loss or damage suffered by reason of the conduct of the respondent;
- (f) where the complaint relates to sexual harassment by a co-worker, that the employer concerned take appropriate action to ensure that the sexual harassment ceases and report to the Court on the action so taken;
- (g) a declaration that it would be inappropriate for any further action to be taken in the matter;
- (h) that costs be paid in such manner as the Court may direct; or
- (i) such other order as may be appropriate.

(3) The Court may, in the making of an order under subsection (2), take into consideration injury to the complainant's feelings, or humiliation suffered by the complainant.

Court may prohibit publication of evidence, etc.

23. – (1) In the interest of the administration of justice, public safety, public order or public morality, the Court hearing a claim in the exercise of its jurisdiction under this Act may direct that –

- (a) the name, identity, and address of any person shall be protected in the manner specified by the Court;

- (b) in relation to a witness called or appearing before the Court, the name, identity, and address of the witness and such other particulars concerning the witness, as in the opinion of the Court shall be kept confidential, shall not be published; or
- (c) no particulars of a complaint shall be published without the prior written approval of the Court.

(2) A person shall not publish any information in contravention of a direction under subsection (1).

PART VIII. *Offences and Penalties*

Offences in relation to attendance at inquiry.

24. – (1) Any person directed, pursuant to the provisions of this Act, to attend an inquiry of the Tribunal and who fails without reasonable excuse to do so, commits an offence and is liable on summary conviction in a Resident Magistrate’s Court to a fine not exceeding five hundred thousand dollars or, in default of payment thereof, to a term of imprisonment not exceeding one month.

(2) Any person who, without reasonable excuse, fails or refuses to furnish information or produce documents under the provisions of this Act commits an offence and is liable on summary conviction in a Resident Magistrate’s Court to a fine not exceeding five hundred thousand dollars or, in default of payment thereof, to a term of imprisonment not exceeding one month.

(3) Any person appearing before the Tribunal as a witness at an inquiry, who -

- (a) refuses or fails to be sworn or to make an affirmation; or
- (b) refuses or fails to answer any question required to be answered by the Tribunal,

commits an offence and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding five hundred thousand dollars or, in default of payment thereof, to a term of imprisonment not exceeding one month.

(4) Any person who –

- (a) interrupts the proceedings at any inquiry;
- (b) uses insulting language towards the Tribunal when the Tribunal is exercising any powers or performing any functions under this Act;
- (c) publishes anything in contravention of section 18 or 23; or
- (d) furnishes to Tribunal any information or makes a statement at an inquiry knowing that the information or statement is false or misleading in a material particular,

commits an offence and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding five hundred thousand dollars or, in default of payment thereof, to a term of imprisonment not exceeding one month.

**Offence of
adverse
action.**

25. – (1) A person commits an offence if that person (hereinafter referred to as the first-mentioned person) subjects, or threatens to subject, another person (hereinafter referred to as the other person) to any adverse action –

- (a) on the ground that the other person -
 - (i) has made, or proposes to make, a complaint or a claim under this Act;
 - (ii) has furnished, or proposes to furnish, any information, or has produced, or proposes to produce, any

documents to a person exercising or performing any power or function under this Act; or

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

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

(2) A person who commits an offence under subsection (1) shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding one year.

Offence of making false complaint, etc.

26. – (1) A person shall not make any false, vexatious or frivolous complaint or claim against another person for an alleged contravention of any provision of this Act.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding five hundred thousand dollars or, in default of payment thereof, to imprisonment for a term not exceeding one month.

PART IX. *Miscellaneous*

Regulations.

27. – (1) The Minister may, after consultation with the Minister with responsibility for labour and the Minister with responsibility for gender affairs, make regulations for the better carrying out of the provisions of this Act.

(2) Regulations made under subsection (1) shall be subject to affirmative resolution.

**Tribunal
may regulate
its proced-
ures and
proceed-
ings.**

28. Subject to the provisions of this Act, the Tribunal may regulate its procedures and proceedings as it thinks fit, and may prescribe forms to be used in connection with complaints brought under this Act.

**Review of
Act.**

29. – (1) This Act shall be reviewed from time to time by a committee of both Houses of Parliament appointed for that purpose.

(2) The first such review shall be conducted not later than five years after the date of commencement of this Act.

**Power of
Minister
to amend
monetary
penalties .**

30. The Minister may, by order published in the *Gazette*, subject to affirmative resolution, amend any monetary penalty prescribed by or under this Act.

**Act binds the
Crown.**

31. This Act binds the Crown.

**Amendment
and
construction
of enact-
ments.
Schedule.**

32. – (1) The provisions of the enactments specified in the first column of the Schedule are amended in the manner specified respectively in relation to them in the second column of the Schedule.

(2) Each amendment shall be construed as one with the enactment specified in relation thereto.

SCHEDULE

(Section 32)

Amendment of Enactments

Provision

Amendment

**The Labour
Officers (Powers)
Act**

Second
Schedule

Delete the words “The Maternity Leave

Act.” and substitute therefor the following –

“The Maternity Leave Act
The Sexual Harassment Act.”.

**The Labour
Relations and
Industrial Disputes
Act**

Section 7

In subsection (1), insert immediately after the word “Act” the words “, and for the purposes of any other enactment ascribing functions thereto,”.

Section 8

1. Insert next after subsection (1) the following –

“ (1A) The Tribunal, when exercising its jurisdiction under the *Sexual Harassment Act*, shall sit in a Division to be known as the Sexual Harassment Division, and the provisions of subsection (2)(ba) shall apply thereto.”.

2. Insert next after subsection (2)(b) the following –

“ (ba) where the Tribunal proposes to deal with a complaint under the *Sexual Harassment Act*, a Division

of the Tribunal shall consist

of –

- (i) a Deputy Chairman appointed by the Minister after consultation with the Minister with responsibility for gender affairs;
- (ii) one of the members of the Tribunal who as appointed by the Minister from the panel supplied to him by organizations representing employers, or from a panel constituted by him in lieu thereof, in accordance with the Second Schedule;
- (iii) one of the members of the Tribunal who was appointed by

the Minister from
 the panel supplied
 to him by
 organizations
 representing
 workers, or from a
 panel constituted by
 him in lieu thereof,
 in accordance with
 the Second
 Schedule,

who, as regards subparagraphs
 (ba)(ii) and (iii), shall be selected
 by the Deputy Chairman referred to
 in subparagraph (ba)(i);”.

3. Insert next after subsection (3) the
 following—

“ (3A) The Deputy Chairman
 appointed in accordance with
 subsection (2)(ba)(i) shall preside
 over an inquiry arising under the
Sexual Harassment Act.” .

Second
 Schedule
 Paragraph 1

Insert next after subparagraph (5) the
 following –

“(6) For the purposes of the

Sexual Harassment Division, the Minister may appoint, in accordance with section 8(2)(ba)(i), more than one person as a Deputy Chairman, if the Minister considers it necessary in order to more effectively manage the workload of that Division.”.

MEMORANDUM OF OBJECTS AND REASONS

At present, sexual harassment is not specifically recognized in any existing legislation in Jamaica. However, there is consensus that legislation is necessary to address concerns about sexual harassment which is employment related, occurring in institutions or arising in the landlord and tenant relationship.

This Bill outlines the types of conduct which constitute sexual harassment and prohibits certain related conduct.

The Bill makes further provisions for the making of complaints by persons who are aggrieved by sexual harassment. The complaints are to be heard by the newly created Sexual Harassment Division of the Industrial Disputes Tribunal which is established under the *Labour Relations and Industrial Disputes Act*, in cases where the sexual harassment is between an employer and a worker, or may be brought in the Resident Magistrate’s Court acting in its civil jurisdiction. Claims in respect of sexual harassment at institutions or within the landlord and tenant relationship are to be brought in the Resident Magistrate’s Court acting in its civil jurisdiction.

Portia Simpson Miller
Prime Minister

