

ABILL

ENTITLED

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

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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*

1. This Act may be cited as the Sexual Harassment Act, 2019 and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*. Short title
and
commencement.
- 2.—(1) In this Act, unless the context otherwise requires— Interpretation.
“accommodation” includes residential and business
accommodation;

“complainant” means a person who makes a complaint pursuant to the provisions of this Act;

“complaint” means a complaint made pursuant to section 25;

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

“Court” means the Parish 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;

“hearing” means a hearing conducted by the Tribunal pursuant to Part VI in relation to a complaint;

“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* or any other place for the custody of minors;
- (d) a nursing home within the meaning of section 2 of the *Nursing Homes Registration Act* or any other place for the custody of the elderly;
- (e) a medical facility and psychiatric facility;
- (f) a place for the use of any facility by members of any organization; and

- (g) 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 complaint, means the person who is alleged to have committed the act to which the complaint relates;

“sexual advance” includes 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 sexual suggestions, remarks or 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 unwelcome sexual advance towards a person, by another person, which—

- (a) is reasonably regarded as offensive or humiliating by the person towards whom the sexual advance is made; or
- (b) has the effect of—
 - (i) interfering unreasonably with the work performance of the person to whom the sexual advance is made; or
 - (ii) creating an intimidating, offensive or a hostile work environment,

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 Tribunal constituted under Part V;

“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*

3.—(1) An employer shall make every reasonable effort to ensure that the workers employed by the employer are not sexually harassed in the course of their employment.

Duty to ensure environment free of sexual harassment.

(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.

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

- (a) shall, in relation to the business or undertaking of the employer, 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 the workers employed by the employer.

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

(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 at 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 mentioned in paragraph (a) 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, shall 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 maybe, of their right to seek redress from the Tribunal 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.

(4) An employer or a person in charge of an institution who discloses any information relating to a complainant or the circumstances of a complaint, in contravention of subsection 3(f) shall be liable for such disclosure and a complainant who is aggrieved by such disclosure may make a complaint in respect thereof to the Tribunal.

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

Duty of employer to take action to deal with 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.

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.

Duty of person in charge of an institution to take action to deal with 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 make a complaint in respect thereof to the Tribunal.

PART III—Forms of Sexual Harassment and Related Prohibited Conduct

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

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

(2) An employer or supervisor shall not make it appear to a worker that—

- (a) 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; or

(b) the worker will suffer any form of disadvantage in connection with employment unless the worker accepts or is tolerant 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 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.

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.

Sexual harassment in relation to accommodation.

(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) any term or condition upon 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*

10.—(1) The Minister with responsibility for gender affairs may designate persons, being field officers attached to the Bureau of Gender Affairs, as authorized officers, for the purposes of—

Designation of authorized officers.

- (a) investigating and securing the proper observance of sections 3 and 4; and
- (b) investigating any complaint made under this Act.

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

(3) An authorized officer, on finding that a person is not in compliance with section 3 or 4, may issue a direction setting out the terms of compliance, 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 shall, on summary conviction in a Parish Court, be liable to a fine not exceeding one million dollars.

PART V—*Sexual Harassment Tribunal*

Establishment
and
constitution
of Tribunal.

11.—(1) There is hereby established, the Sexual Harassment Tribunal which shall, subject to subsection (2), consist of twelve members appointed by the Minister as follows—

- (a) four members who shall be attorneys-at-law, who have each practised for at least ten years;
- (b) four members who shall be trained and certified mediators who have each practised for at least two years;
- (c) the other members who shall be selected from among persons who appear to the Minister responsible for gender affairs, after consultation with the Minister responsible for justice and the Minister responsible for labour and social security, to be qualified as having had the experience of, and shown capacity in, matters relating to labour relations and gender affairs.

(2) Pursuant to subsection (1), at least one half of the total members appointed to the Tribunal shall be females.

(3) The members of the Tribunal shall, on their appointment, take the oath of office set out in the Schedule.

Schedule.

Appointment
of
chairperson
of the
Tribunal.

12.—(1) The Minister shall appoint one of the attorneys-at-law who is appointed as a member of the Tribunal, to be the chairperson of the Tribunal.

(2) In the case of the absence or inability of the chairperson to act at any sitting of the Tribunal, the members of the Tribunal present at

the meeting shall elect one of their number to act as the chairperson at that sitting.

13.—(1) Subject to the provisions of this Part, the Tribunal shall have jurisdiction to—

Jurisdiction
of Tribunal
to hear
complaints.

- (a) hear and determine—
 - (i) a complaint made by a worker that the worker's employer has failed to act in accordance with section 5(1);
 - (ii) 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);
- (b) a complaint made by a person in relation to any matter arising under section 4(1)(f), 7, 8 or 9; and
- (c) make any of the awards specified under section 34.

14.—(1) A complaint made to the Tribunal pursuant to section 13, shall be heard and determined by a panel consisting of three members of the Tribunal, who shall be appointed by the chairperson of the Tribunal.

Hearing panel
of Tribunal.

(2) At least one member appointed pursuant to subsection (1) shall be a female and another member so appointed, shall be an attorney-at-law and the chairperson of the panel.

(3) In assigning members of the Tribunal to a panel, the chairperson shall take into consideration the requirements, if any, for experience and expertise to enable the Tribunal to decide the issues raised in any matter before the Tribunal.

15.—(1) A member of the Tribunal who has an interest, whether directly or indirectly, in any matter brought before the Tribunal shall—

Disclosure of
interest in
relation to
matter before
the Tribunal.

- (a) by notice, disclose the nature of the interest at a sitting of the Tribunal; and
- (b) not take part in any deliberation or decision of the Tribunal with respect to that matter.

(2) A notice given by a member at a hearing of the Tribunal to the effect that the member is interested in any matter before the Tribunal shall, for the purposes of subsection (1), be a sufficient disclosure of the member's interest in relation to the matter.

(3) A member need not attend in person at a hearing of the Tribunal in order to make a disclosure which the member is required to make under this section if the member takes reasonable steps to ensure that the disclosure is made by notice which is taken into consideration and read at the hearing.

(4) Where the Minister is satisfied that a member of the Tribunal is unable to carry out the duties as a member properly and effectively because of any conflict of interest or potential conflict of interest in a matter before the Tribunal, the Minister shall replace that member or direct that member to abstain from taking part in any proceedings relating to any matter affected by the member's conflict of interest or potential conflict of interest.

Tenure of office.

16. The members of the Tribunal shall, subject to the provisions of this Part, hold office for a period not exceeding three years, and shall be eligible for re-appointment.

Acting appointments.

17. The Minister may appoint any person to act in the place of the chairperson or any other member of the Tribunal in the case of the absence, inability or refusal of the chairperson to act.

Resignation.

18.—(1) Any member of the Tribunal, other than the chairperson, may at any time resign from the office as member by instrument in writing addressed to the Minister and transmitted through the chairperson, and from the date of the receipt by the Minister of the instrument, that member shall cease to be a member of the Tribunal.

(2) The chairperson may at any time resign from the office as chairperson by instrument in writing addressed to the Minister and the resignation shall take effect as from the date of receipt by the Minister of that instrument.

Disqualification.

19. A person shall not become or continue to be a member of the Tribunal, if the person—

- (a) is suffering from a mental disorder within the meaning of the Mental Health Act, becomes of unsound mind or becomes

permanently unable to perform the functions as a member of the Tribunal by reason of ill health;

- (b) is a bankrupt or an insolvent within the meaning of the Insolvency Act;
- (c) has at any time been convicted of an offence involving dishonesty or moral turpitude; or
- (d) holds an office which duties would conflict with functions of the person as a member of the Tribunal.

20. The Minister may revoke the appointment of any member of the Tribunal for the inability of the member to discharge the functions as a member of the Tribunal, whether arising from infirmity of body or mind, dereliction of duty, misbehaviour or for any of the circumstances arising under section 19.

Revocation
of
appointment.

21. If any vacancy occurs in the membership of the Tribunal, such vacancy shall be filled by the appointment of a person who shall, subject to the provisions of this Part, hold office for the remainder of the period for which the previous member was appointed, so however, that the appointment shall be made in the same manner and from the same category and gender of persons as the appointment of the previous member.

Filling of
vacancies.

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

Publication
of
membership.

23. There shall be paid to the chairperson and other members of the Tribunal, in respect of each hearing, a remuneration, whether by way of honorarium, salary or fees, and such allowances as may be determined by the Minister responsible for the public service.

Remunera-
tion of
members.

24.—(1) The Tribunal shall be provided with a secretary and with such additional staff as may be deemed necessary to assist the Tribunal in the performance of its functions.

Staff of
Tribunal.

(2) The secretary of the Tribunal shall be responsible for—

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

- (b) keeping in safe custody the documents of the Tribunal;
- (c) recording statements of witnesses called before the Tribunal;
and
- (d) performing such other duties as the Tribunal may require.

PART VI—*Procedure for Making Complaints, Investigations
and Hearing by Tribunal*

Making of
complaint.

25.—(1) A person who alleges that—

- (a) a contravention of section 5(1), 6(1), 7, 8 or 9 has been committed against the person;
- (b) an employer or a person who is in charge of an institution has failed to comply with section 3(1) or 3(2) respectively;
- (c) an employer or a person who is in charge of an institution has disclosed information in contravention of section 4(4),

may, subject to subsection (3), make a complaint in writing, in the prescribed manner, to the Tribunal, setting out the details of the alleged contravention.

(2) A complaint shall be made within a period of twelve months from the date of the alleged contravention to which the complaint 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.

(3) Subject to subsection (4), a person shall, before making a complaint under subsection (1), 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 an employer or a person in charge of the institution, as the case may be, in accordance with section 4(3)(d).

(4) The Tribunal may grant leave to a person to make a complaint to the Tribunal 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 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).

26. Where a complaint referred to in section 25 has been lodged before the Tribunal, any person having any official duty or being employed in the administration of this Act shall not, unless the Tribunal so permits, divulge or communicate any particulars of the complaint to any other person, until—

Particulars of complaint not to be communicated.

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

27.—(1) Subject to subsection (2), the Tribunal may, where a complaint appears to it to be well founded and is not frivolous or vexatious, cause an investigation to be conducted into the complaint by an authorized officer appointed pursuant to Part IV.

Investigation and report of findings.

(2) For the purposes of conducting an investigation under subsection (1), an authorized officer may, by written notice—

- (a) require an employer to disclose information regarding a complaint;
- (b) require any person to furnish any information disclosed in a complaint;
- (c) specify the time within which the employer or person shall furnish any information disclosed in the notice; and
- (d) require any person to—
 - (i) attend at such time and place as may be specified in the notice;

- (ii) give such evidence as the authorized officer considers necessary; and
- (iii) produce any document or exhibit in the possession or control of the person relating to any matter disclosed in a complaint.

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

(4) A person who, without reasonable cause, fails to comply with a notice referred to in subsection (2) commits an offence and shall, on summary conviction in a Parish Court, be liable to a fine not exceeding one million dollars.

(5) Upon completion of an investigation, the authorized officer shall issue a report of the findings of the authorized officer to the Tribunal.

Lack of grounds for making of complaint.

28. Pursuant to a report submitted by an authorized officer under section 27(5), where the Tribunal finds that there is no evidence of sexual harassment, the Tribunal shall, in writing, inform—

- (a) the complainant; and
- (b) any person against whom the complaint was made of the fact and the reasons for its finding, and it shall take no further action in relation to the complaint.

Procedures to apply in relation to a hearing conducted by Tribunal.

29.—(1) The following procedures shall apply in relation to a hearing conducted by the Tribunal—

- (a) notice of the time and place at which the hearing is to be held shall be given to the parties in relation to the complaint, and the notice shall be of not less than ten days;
- (b) a record of the evidence adduced before the Tribunal shall be made, dated and signed by the members;
- (c) documents produced as exhibits before the Tribunal shall be marked, dated and initialled by the chairperson and shall be attached to the file of the hearing; and

- (d) in the absence of any party duly notified to attend, the matter, which is the subject of the complaint may be decided by the Tribunal *ex parte*.

(2) The Tribunal shall not conduct a hearing or shall discontinue a hearing, if the Tribunal receives notice that the complainant does not wish the hearing to be held or to be continued.

(3) The Tribunal—

- (a) may endeavour, by any means that it considers reasonable, to resolve a complaint which is the subject of a hearing under this section; or
- (b) shall take steps that it considers reasonable, to effect an amicable settlement of the complaint, 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.

30. The Tribunal may take evidence on oath or affirmation for the purpose of the hearing.

Evidence
before
Tribunal.

31.—(1) The Tribunal may, for the purpose of a hearing, 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 hearing.

Attendance
at hearing.

(2) Directions under subsection (1) may be 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 hearing 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 a hearing reasonable opportunity to call witnesses or give evidence, examine and cross-examine witnesses and make submissions to the Tribunal.

Right to representation. **32.** A party to a hearing 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. **33.—(1)** In the interest of the administration of justice, public safety, public order or public morality, the Tribunal conducting a hearing 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 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. **34.—(1)** After conducting a hearing, 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 the respondent has engaged in conduct amounting to a contravention under this Act, in the manner specified in the declaration, and shall 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 termination of a contract or agreement should be varied to redress any loss or damage suffered by the complainant;
 - (vi) 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 subparagraph (i) ceases, and to report to the Tribunal on the action taken;
 - (vii) 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 the 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, on summary conviction in a Parish Court, be liable to a fine not exceeding one million dollars or, in default of payment thereof, to a term of imprisonment not exceeding three months.

35. A decision or an award of the Tribunal shall be binding on the complainant and the respondent appearing before the Tribunal and shall take effect from such date as may be specified in the order, having regard to the circumstances of the case.

Effect of award.

36. Any person who is dissatisfied with any decision or award of the Tribunal may appeal to the Supreme Court.

Appeal.

PART VII—*Offences and Penalties*

37.—(1) Any person directed, pursuant to the provisions of this Act, to attend a hearing of the Tribunal and who fails without reasonable

Offences in relation to attendance at hearing.

excuse to do so, commits an offence and shall, on summary conviction in a Parish Court, be liable to a fine not exceeding one million dollars or, in default of payment thereof, to a term of imprisonment not exceeding three months.

(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 shall, on summary conviction in a Parish Court, be liable to a fine not exceeding one million dollars or, in default of payment thereof, to a term of imprisonment not exceeding three months.

(3) Any person appearing before the Tribunal as a witness at a hearing, 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 shall, on summary conviction in a Parish Court, be liable to a fine not exceeding one million dollars or, in default of payment thereof, to a term of imprisonment not exceeding three months.

(4) Any person who—

- (a) interrupts the proceedings at a hearing;
- (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 33;
- (d) permits, divulges or communicates any particulars of a complaint in contravention of section 26;
- (e) furnishes to the Tribunal any information or makes a statement at a hearing knowing that the information or statement is false or misleading in a material particular,

commits an offence and shall, on summary conviction in a Parish Court, be liable to a fine not exceeding one million dollars or, in default of payment thereof, to a term of imprisonment not exceeding three months.

38.—(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—

Offence of
adverse
action.

- (a) on the ground that the other person—
 - (i) has made, or proposes to make, a complaint 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, a 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 contravenes subsection (1) commits an offence and shall, on summary conviction in a Parish Court, be liable to a fine not exceeding one million dollars or to imprisonment for a term not exceeding three months.

39.—(1) A person shall not make any false complaint against another person for an alleged contravention of any provision of this Act.

Offence of
making false
complaint,
etc.

(2) A person who contravenes subsection (1) commits an offence and shall, on summary conviction in a Parish Court, be liable to a fine not exceeding one million dollars or, in default of payment thereof, to imprisonment for a term not exceeding three months.

PART VIII—*Miscellaneous*

40.—(1) The Minister may make regulations for the better carrying out of the provisions of this Act.

Regulations.

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

Tribunal may regulate its procedures and proceedings.

41. 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.

42.—(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.

43. 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.

44. This Act binds the Crown.

SCHEDULE

(Section 11 (2))

Oath of Office for Members of Tribunal

I _____ do swear (affirm) that as a member of the Tribunal, I will, at all times and in all things, do equal justice to all persons and discharge the duties of my office according to law and to the best of my knowledge and ability without fear, favour or affection.

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 Tribunal.

OLIVIA GRANGE
Minister of Culture, Gender,
Entertainment and Sport.

A BILL

ENTITLED

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

As introduced by the Honourable Minister of Culture,
Gender, Entertainment and Sport.

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