

L.N.13 of 2001 and 3 of 2002.

**EQUAL OPPORTUNITIES
(PERSONS WITH DISABILITY) ACT
(CAP.413)**

Procedure for the Investigation of Complaints Regulations, 2001.

IN exercise of the powers conferred by article 33 of the Equal Opportunities (Persons with Disability) Act, the Deputy Prime Minister and Minister for Social Policy has made the following regulations:-

1. (1) The title of these regulations is the Procedure for the Investigation of Complaints Regulations, 2001.

Citation and
commencement

(2) These regulations shall be deemed to have come into force on the 1st October, 2000.

2. (1) In these regulations unless the context otherwise requires:-

Interpretation

“Act” means the Equal Opportunities (Persons with Disability) Act;

“aggrieved party” means a physical person or a person having a juridical personality;

“Commission” means the National Commission Persons with Disability established in terms of article 21 of the Act and includes Any officer of the Commission duly authorised by it to act on its Behalf for a specific purpose or class of purposes under the Act;

“unlawful act” means an act which allegedly is in breach of any provision of the Act.

(2) Words and phrases used in these regulations shall have the same meaning given to them in the Act.

3. The Commission, when commencing an investigation in exercise of the powers given to it by article 32 of the Act, shall notify by means of a registered letter all the parties concerned that it intends to carry out an investigation. In its letter to the person who allegedly is responsible for the unlawful act of discrimination, the Commission shall inform him that it has reasons to believe that that person allegedly committed or is committing an unlawful act, and grants him seven days from the service of the letter referred to in this regulation within which to state in writing to the Commission whether

Notice by
registered letter

he considers the compliant justified and which course of action he will be taking to remedy the situation.

Information
required for the
Investigation

4. (1) The Commission may request any information as may be required to carry out its investigation.

(2) By means of a written notice, the commission may request any person:

(a) to provide it with any information that may be described in the said notice;

(b) to attend and give oral information about the matter specified in the notice and to produce all documents in his possession or control relating to any such matter.

Provided that, a person shall not be obliged to give information or produce a document requested by the notice if that person is deemed to be exempt from providing that information or producing the document before the Court in civil proceedings.

(3) If the person concerned fails to provide, or if the Commission has reason to believe that that person has decided not to provide the written information, the Commission may request the Court, by means of an application before the Civil Court First Hall to order the person referred to in sub regulation (2) hereof to comply with the said notice. The Court may also be requested to give any other order which it may consider appropriate and required according to the specific circumstances of the case.

Remedial
action to be
requested

5. (1) When the Commission concludes that an unlawful act constitutes a breach of any provision of the Act, it shall communicate its conclusion to the interested parties by means of a registered letter requesting the said parties to undertake that remedial action necessary in the circumstances within a specified time limit and intimating them that in default, judicial action will be taken.

(2) The interested parties may request the Commission to extend the time limit if the circumstances of the case so warrant. Such a request shall be made within 15 days of receipt of the registered letter referred to in this regulation.

Request may
be referred
to Court

6. In the event that the interested parties, having been served with a registered letter as provided for in regulation 5, fail to take the necessary remedial action within the specified time limit, or the time limit mutually agreed upon, the Commission may

request the Court, by means of an application to be filed before the Civil Court, First Hall, to order the person mentioned in regulation 5 to undertake, all necessary remedial action.

Arbitration
Proceedings
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7. On agreement being reached by the interested parties, any matter referred to in regulations 5 and 6 may be referred to arbitration in terms of the “Arbitration Act”.