

THE GENDER EQUITY AND EQUALITY ACT, 2015

ARRANGEMENT OF SECTIONS

PART I
PRELIMINARY

Section

1. Short title and commencement
2. Interpretation
3. Superiority of Act

PART II
GENDER PRINCIPLES, POLICIES AND MEASURES

4. Principles achieving gender equity and equality
5. General powers of Minister for achieving gender equity and equality

PART III
GENDER EQUITY AND EQUALITY COMMISSION

6. Establishment of Commission
7. Seal of Commission
8. Autonomy of Commission
9. Functions of Commission
10. Board of Commission
11. Functions of Board
12. Committees of Board
13. Director, Secretary and other officers

PART IV
GENDER EQUITY AND EQUALITY

14. Achieving gender equity and equality
15. Prohibition of discrimination
16. Upholding rights and dignity of male and female
17. Promoting gender equity and equality by public bodies
18. Promoting gender equity and equality by private bodies
19. Promoting gender equity and equality by public and private bodies
20. Right to nationality

21. Sexual reproductive rights
22. Marriage and family life
23. Economic empowerment
24. Equal representation and participation
25. Gender equity and equality measures in education curriculum
26. Special gender equity and equality measures for women in rural and peri-urban areas

PART V

ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

27. Elimination of discrimination in economic and social life
28. Elimination of adverse social and cultural practices and conduct
29. Elimination of discrimination in public and political life
30. Elimination of discrimination in education and vocational guidance
31. Elimination of discrimination in employment
32. Elimination of discrimination in health care services
33. Elimination of discrimination in exercise of public functions
34. Elimination of discrimination in professional or trade organisation
35. Elimination of discrimination by qualifying bodies
36. Elimination of discrimination in disposal of property
37. Elimination of discrimination in provision of goods, services and facilities
38. Discrimination in relation to gender based violence
39. Prohibition of sexual harassment
40. Policy and procedures on sexual harassment

PART VI

COMPLAINTS AND INVESTIGATIONS

41. Lodging of complaint
42. Consideration of complaint
43. Investigation by Commission
44. Request for information
45. Referral of matter
46. Collaboration on investigations

PART VII
GENERAL PROVISIONS

47. Directive of Minister on non-compliance
48. Compliance notice by Minister
49. Search without warrant
50. Search with warrant
51. Power to arrest
52. Compensation for expenses
53. Disclosures and reports by Commission
54. Recommended action by Commission
55. Civic awareness and empowerment training
56. General penalty
57. Regulations

SCHEDULE

GOVERNMENT OF ZAMBIA

ACT

No. 22 of 2015

Date of Assent: 23rd December, 2015

An Act to establish the Gender Equity and Equality Commission and provide for its functions and powers; provide for the taking of measures and making of strategic decisions in all spheres of life in order to ensure gender equity, equality and integration of both sexes in society; promote gender equity and equality as a cross cutting issue in all spheres of life and stimulate productive resources and development opportunities for both sexes; prohibit harassment, victimisation and harmful social, cultural and religious practices; provide for public awareness and training on issues of gender equity and equality; provide for the elimination of all forms of discrimination against women, empower women and achieve gender equity and equality by giving effect to the Convention on the Elimination of all Forms of Discrimination against Women, the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa and the SADC Protocol on Gender and Development; and provide for matters connected with, or incidental to, the foregoing.

[24th December, 2015

ENACTED by the Parliament of Zambia

Enactment

PART I
PRELIMINARY

1. This Act may be cited as the Gender Equity and Equality Act, 2015, and shall come into operation on such date as the Minister may appoint, by statutory instrument.

Short title
and
commence-
ment

- Interpretation 2. In this Act, unless the context otherwise requires—
- “adverse” means acting contrary, deciding unfavourably or being antagonistic to anything provided for in this Act or taking action which is harmful or not in the interest or welfare of women;
- “affirmative action” means a policy, programme or measure that seeks to redress past discrimination to ensure equal opportunity and positive outcome in all spheres of life for women;
- “African Protocol” means the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa adopted by the African Union in Maputo on the 11th July, 2003;
- “appointed date” means the date the Minister appoints in accordance with section *one*;
- “authorisation” means a licence, permit, certificate, registration, enrolment, qualification or other permission issued by a qualifying body;
- “authorised officer” means an employee of the Commission who is permitted by the Director to take action, decide or work on a particular matter;
- “Board” means the Board constituted in accordance with section *ten*;
- “boy” means a male person who is below the age of eighteen years;
- “child” means a person who is below the age of eighteen;
- Cap. 1 “Commission” means the Gender Equity and Equality Commission established in accordance with section *six*;
- “complainant” means a person who alleges that the Constitution or this Act has been contravened and who institutes proceedings in accordance with this Act;
- “Convention” means the United Nations Convention on the Elimination of all Forms of Discrimination against Women, which entered into force on the 3rd September, 1981 and was ratified by Zambia on the 21st June, 1985;
- “Director” means the person appointed chief executive officer of the Commission in accordance with section *thirteen*;

- “discrimination ” means a distinction, exclusion or restriction made on the basis of sex or any other ground which has the effect or purpose of impairing or nullifying the dignity of a person or the recognition, enjoyment or exercise by a person of that person’s rights and freedoms as specified in the Constitution or any other law; Cap. 1
- “educational institution ” means a school, college, institute, university or other institution at which education, learning or training is provided;
- “employee ” has the meaning assigned to it in the Employment Act; Cap. 268
- “employment ” includes employment with a public body, part-time employment, temporary employment and employment under a contract, commission or apprenticeship;
- “employer ” means a person, firm, corporation, company, public authority or body of persons who or which has entered into a contract of service to engage a person, and includes an agent, representative, foreman or manager who is placed in authority over the person engaged;
- “empower ” means to gain access to opportunities and develop a person’s capacities so as to shape that person’s life or that of the person’s community, in all spheres of life, and “empowerment ” shall be construed accordingly;
- “equal remuneration ” means the payment of rates, salary or other earnings without discrimination;
- “equality ” includes the full and equal enjoyment, by both sexes, of rights, opportunities, responsibilities and freedoms, and where both sexes are equally treated, in accordance with the Constitution and this Act; Cap. 1
- “equity ” means the just and fair distribution of benefits, rewards and opportunities between both sexes;
- “girl ” means a female person who is below the age of eighteen years;
- “gender ” means the roles, duties and responsibilities which are culturally or socially ascribed to women, men, girls and boys;

“gender equality” means the state of being equal in terms of enjoyment of rights, treatment, quantity or value, access to opportunities and outcomes by, and in relation to, both sexes;

“gender mainstreaming” means the process of identifying gender gaps and making the concerns and experiences of both sexes integral to the design, implementation, monitoring and evaluation of policies and programmes in all spheres of life so that both gender benefit equally;

“gender sensitive” means acknowledging and taking into account the specific gender needs at all levels of planning, implementation, monitoring and evaluation;

“gender stereotypes” means the beliefs held about characteristics, traits and activity domains that are deemed appropriate for women, men, the girl child and boy child based on their conventional roles, domestically and socially;

“harassment” means engaging in conduct that induces in a person the fear of imminent harm or feelings of annoyance and aggravation, and includes—

(a) sexual harassment;

(b) psychosocial harassment;

(c) making persistent, unwelcome, nonconsensual communication or contact with a person, including—

(i) following, pursuing or accosting the person;

(ii) watching, loitering outside or near a building where the person resides, works, carries on business, studies or happens to be;

(iii) repeatedly making phone calls or using a third party to make phone calls to the person, whether or not conversation ensues;

(iv) repeatedly sending, delivering or causing the delivery of unsolicited, offensive or abusive letters, telegrams, packages, facsimiles, electronic mail, objects or messages to the person; or

(v) engaging in other menacing, annoying or aggravating behaviour;

- “ harmful practice ” means a social, cultural or religious practice which—
- (a) undermines the dignity, health or liberty of a person;
 - or
 - (b) results in physical, sexual, emotional or psychological harm to a person;
- “ health ” means the complete state of physical, mental, spiritual and social well-being of an individual and not merely the absence of disease or infirmity;
- “ Human Rights Commission ” means the Commission established in accordance with the Constitution; Cap. 1
- “ Investigator-General ” means the person appointed Investigator-General of the Republic in accordance with the Constitution; Cap. 1
- “ marital status ” means the status or condition of being single, married, divorced or widowed;
- “ man ” means a male person who is eighteen years of age and above;
- “ multiple roles of women ” means the several responsibilities that women shoulder in the reproductive, productive, community and management spheres of life;
- “ non-governmental organisation ” means a private voluntary grouping of individuals or associations, whether corporate or unincorporated, not established or operated for profit, partisan politics or any commercial purposes, and who or which have organised themselves for the promotion of civic education, advocacy, human rights, social welfare, development, charity, research or other activity or program for the benefit or interest of the public, through resources mobilised from sources within or outside Zambia;
- “ private body ” means a nongovernmental organisation, political party, company, enterprise, partnership, firm, club, institute, trade union, federation or association or other organisation which is not a public body;
- “ property ” includes real estate, personal property, legal interest in land or intellectual property;
- “ public body ” means the Government, any Ministry or department of the Government, the National Assembly, the Judicature, a local authority, parastatal, board, council, authority, commission or other body appointed by the Government, or established by, or under, any written law;

- “qualification” includes recognition, accreditation, reputation and certification;
- “qualifying body” means a public body or private body that confers, issues, reviews, extends, revokes or withdraws an authorisation that is needed for, or facilitates the practice of, a profession, commencement or carrying on of a trade, occupation or vocation;
- Cap. 1 “right” means a privilege, immunity, exemption, favour, preference, advantage or benefit specified in the Constitution, Convention, African Protocol, SADC Protocol and this Act;
- “SADC Protocol” means the Southern African Development Community Protocol on Gender and Development signed in Johannesburg, South Africa on the 17th August, 2008;
- “spheres of life” means the economic, social, political cultural, socio-economic or socio-political fields;
- “sex” means the biological characteristics which define humans as female or male;
- “sexual harassment” includes conduct or contact of a sexual nature, such as the following:
- (a) having physical contact, making advances, comments or innuendos without the consent of a person;
 - (b) being offensive, humiliating or intimidating to a person in a suggestive manner; or
 - (c) threatening or imposing a condition on a person for doing or undertaking anything or creating a hostile environment for an employee;
- Cap. 1 “sexual reproductive rights ” means the rights relating to sexuality, reproduction, sexual integrity, privacy and safety of the person, and includes the right to make free and responsible reproductive choices, receive sexual information based on scientific inquiry and receive sexual and reproductive health care in accordance with the Constitution and other laws;
- “special measures ” include programmes, affirmative action or steps designed to ensure gender equity and equality which promote equal opportunities, real choices and positive outcomes to—

- (a) eliminate all forms of discrimination;
- (b) provide empowerment for women; or
- (c) afford equal participation in all spheres of life;

“ victimisation ” means the unfair treatment of a person by another person as a result of the person’s performance of, or refusal to perform, an action;

“ woman ” means a female person who is at least eighteen years of age; and

“ work of equal value ” means work that is equal in terms of the demands it makes with regard to matters such as skill, duty, physical and material effort, responsibility, conditions of work and remuneration.

3. Subject to the Constitution, where there is an inconsistency between this Act and the provisions of any other written law, the provisions of this Act shall prevail to the extent of the inconsistency.

Superiority
of Act
Cap. 1

PART II

GENDER PRINCIPLES, POLICIES AND MEASURES

4. The following principles shall apply in matters related to gender:

Principles
achieving
gender equity
and equality

- (a) mainstreaming gender in all policies, legislation, programmes and budgets;
- (b) observance of women’s rights as an integral part of attaining equity and equality in all spheres of life;
- (c) non-exploitation, degrading or undermining of women;
- (d) the prohibition of gender stereotyping;
- (e) the empowerment of women as a key to achieving gender equity and equality;
- (f) women, men, girls and boys have a key role in achieving gender equity and equality;
- (g) public and private bodies shall work together as partners in a coordinated manner in achieving gender equity and equality;
- (h) the elimination of gender bias;
- (i) justice and fairness to survivors of gender-based violence to ensure dignity, protection and respect; and
- (j) the recognition and respect of the multiple roles played by women.

General powers of Minister for achieving gender equity and equality

5. (1) The Minister shall be responsible for the general implementation of this Act.

(2) The Minister shall, without prejudice to the generality of subsection (1), in consultation with other relevant Ministers and the Commission—

(a) take appropriate measures to modify or abolish existing laws, customs and practices that are discriminatory in nature;

(b) develop an integrated framework for the empowerment of both sexes by setting realistic, measurable targets, time frames and indicators for achieving gender equity and equality;

(c) put in place affirmative action, with particular reference to women, in order to eliminate all barriers which prevent women from participating meaningfully in all spheres of life and create a conducive environment for such participation;

(d) ensure equal participation of both sexes in policy formulation and implementation of economic policies;

(e) ensure gender sensitive and responsive budgeting at the micro and macro levels, including tracking, monitoring and evaluation; and

(f) monitor the implementation of laws, policies and programmes that affect, or have an impact on, gender.

(3) The Minister shall ensure that public bodies, private bodies or other persons adopt special measures aimed at accelerating gender equity and equality.

(4) A special measure shall not be considered as discriminatory.

(5) The Minister shall, in the performance of the functions specified in subsections (1) and (2)—

(a) monitor and evaluate international, regional and national standards on gender equity and equality, especially as provided in the Convention, African Protocol and SADC Protocol, and if need be, recommend amendments to be made to this Act or any other written law;

- (b) evaluate policies, programmes and practices of public bodies and private bodies relating to gender equality;
- (c) evaluate and review, or cause to be evaluated and reviewed, laws, proposed laws and customary laws and practices affecting or likely to affect gender equity and equality or the marital status of women and recommend, where necessary, the revision of the law, proposed laws and customary practices;
- (d) liaise with institutions, bodies or authorities with similar objectives to foster common policies and practices, including measures to promote cooperation in areas of gender and handling of complaints;
- (e) encourage compliance with international conventions promoting women's rights acceded to, or ratified by, Zambia and make such reports as may be required thereunder in liaison with other appropriate authorities;
- (f) consider such recommendations, suggestions and requests promoting gender equity and equality received from any source and take such actions as may be appropriate; and
- (g) put in place harmonised data collection mechanisms to improve data collection and ensure effective programming, planning and monitoring.

PART III

THE GENDER EQUITY AND EQUALITY COMMISSION

6. (1) There is established the Gender Equity and Equality Commission which shall be a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name and with power, subject to the provisions of this Act, to do all such things as a body corporate may, by law, do or perform.

Establishment of Commission

(2) The provisions of the Schedule apply to the Commission.

7. (1) The seal of the Commission shall be such device as may be determined by the Commission and shall be kept by the Secretary.

Seal of Commission

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Director or one other person authorised in that behalf by a resolution of the Board.

(3) A contract or instrument which, if entered into or executed by a person, not being a body corporate, is not required to be under seal, may be entered into or executed without seal on behalf of the Commission by the Director or any other person generally or specifically authorised by the Board in that behalf.

(4) A document purporting to be a document under the seal of the Commission or issued on behalf of the Commission shall be received in evidence and shall be executed or issued, as the case may be, without further proof, unless the contrary is proved.

Autonomy of
Commission

8. (1) The Commission shall not be subject to the control or direction of any person or authority in the performance of its functions.

(2) The Commission shall be a self-accounting institution which deals directly with the Ministry responsible for finance in matters relating to its finances.

(3) The Commission shall be adequately funded in a financial year to enable it to effectively perform its functions.

(4) A member of the Commission shall perform the functions of office in good faith and without fear, favour, bias or prejudice.

(5) A public body shall accord the Commission the assistance reasonably required for the protection of its independence and the effective performance of its functions.

Functions of
Commission

9. (1) The Commission is responsible for—

(a) ensuring, in liaison with the Ministry responsible for gender, that gender equality and equity is attained and mainstreamed in public and private affairs and structures;

(b) monitoring, investigating, researching, educating, lobbying, advising and reporting on issues concerning gender equity and equality;

(c) recommending, to appropriate authorities, any measures that need to be taken to ensure gender equity and equality; and

(d) taking steps, in liaison with appropriate authorities, to secure redress for complaints relating to gender equity and equality.

(2) Notwithstanding the generality of subsection (1), the Commission shall—

- (a) promote gender mainstreaming in the systems of governance;
- (b) develop, undertake or manage information and educational programmes in order to promote public understanding of gender equity and equality; and
- (c) perform such other functions as provided under this Act.

10. (1) There is constituted the Board of the Commission which is the governing body of the Commission.

Board of
Commission

(2) The provisions of the Schedule shall apply to the Board.

(3) The Board shall consist of seven part-time members appointed by the President, subject to ratification by the National Assembly.

(4) The President shall appoint persons who are experienced or have qualifications in human rights, gender, advocacy, customary laws, law, public administration, economics or development science, as members of the Board.

(5) The President shall, when making appointments in accordance with subsections (3) and (4), ensure that—

- (a) fifty percent of each sex is appointed; and
- (b) persons with disabilities and youths are represented.

(6) The members of the Board shall elect the Chairperson and the Vice-Chairperson from amongst themselves.

(7) A person shall not be appointed as a member of the Board if that person—

- (a) has been convicted, within the preceding five years, of an offence under a written law and sentenced to imprisonment for a term exceeding six months;
- (b) has a mental or physical disability that renders that person incapable of performing the duties of a member; or
- (c) is an undischarged bankrupt.

11. Subject to this Act, the functions of the Board are to—

Functions of
Board

- (a) ensure the effective and efficient performance of the functions of the Commission by the Director and other officers;

- (b) approve the policy and strategic plans of the Commission;
- (c) provide guidance to the Director and other officers in the performance of the functions of the Commission;
- (d) approve the annual budget and audited accounts of the Commission;
- (e) monitor and evaluate the performance of the Commission against budgets and plans;
- (f) establish and approve rules, guidelines and procedures for the appointment, discipline, termination and conditions of service of the Director and other officers; and
- (g) perform any other function conferred or imposed on the Board by or under this Act.

Committees
of Board

12. (1) Notwithstanding the other provisions of this Act, the Board may constitute such committees as it considers necessary and delegate to the committees any of the functions of the Commission or its functions.

(2) The Board may appoint as a member of a committee, constituted under subsection (1), a person who is or is not a member of the Board, except that at least one member shall be a member of the Board.

(3) A person serving as a member of a committee shall hold office for such period as the Board may determine.

(4) Subject to any specific or general direction of the Board, a committee of the Board may regulate its own procedure.

Director,
Secretary
and other
officers

13. (1) The Board shall appoint a Director for the Commission.

(2) The Director shall be the chief executive officer of the Commission and shall be responsible, under the direction of the Board, for the performance of the functions of the Commission and the administration of the affairs of the Commission.

(3) Subject to this Act, the Board may, by direction in writing, and subject to any terms and conditions as it considers necessary, delegate to the Director any of its functions under this Act.

(4) The Board may appoint a Secretary and such other officers for the Commission as it considers necessary for the performance of the functions of the Commission.

PART IV

GENDER EQUITY AND EQUALITY

14. (1) The following shall apply in achieving gender equity and equality:

Achieving
gender
equity and
equality

- (a) both sexes shall enjoy equal rights before the law;
- (b) both sexes shall have equal access to justice and protection before the law;
- (c) all practices which are detrimental to the achievement of the objectives of this Act are prohibited and, where committed, shall be prosecuted under the appropriate laws, without delay;
- (d) both sexes shall have equal access and rights to credit, capital, mortgages, security and training;
- (e) both sexes shall have equal access to water rights and property; and
- (f) both sexes shall have equal access to modern, appropriate and affordable technology and support services.

(2) A woman shall have the legal capacity to—

- (a) conclude contracts and other legal instruments;
- (b) acquire, own, inherit and administer property; and
- (c) choose residence and domicile.

15. (1) A person, public body or private body shall not discriminate against any sex.

Prohibition
of
discrimination

(2) A person, public body or private body shall not discriminate against a woman due to the woman's pregnancy or the fact that she has given birth to a child.

(3) The Judicature shall take necessary measures to ensure that both sexes have equal and effective protection and equal benefit of the law without discrimination.

(4) A person who, or public body or private body which contravenes subsection (1) or (2) commits an offence and is liable, on conviction, to the general penalty provided for in section *fifty-six*.

(5) Where it is proved in the prosecution of an offence that discrimination was a factor in the commission of the offence, it shall be an aggravating circumstance for purposes of imposing a sentence.

Upholding
rights and
dignity of
male and
female

16. (1) A person, public body and private body has a duty to uphold the rights of both sexes and to respect and safeguard the dignity of both sexes.

(2) A person, public body or private body shall not exploit or subject any person to abusive, violent or degrading treatment.

(3) A person who contravenes subsection (2) commits an offence and is liable to prosecution and punishment in accordance with the Anti-Gender Based Violence Act, 2011, and any other law.

Act No. 1 of
2011

Promoting
gender
equity and
equality by
public
bodies

17. (1) A public body has a duty and responsibility to promote gender equity and equality.

(2) A public body shall—

(a) develop awareness programmes on fundamental rights and freedoms in order to promote gender equity and equality;

(b) within the available resources allocated to that public body—

(i) develop action plans to address gender equity, equality, discrimination and harassment within the public body;

(ii) develop codes of practice and ethics for its officers to assist in promoting gender equity and equality;

(iii) provide assistance, advice and training to its officers on gender equity and equality;

(iv) develop appropriate internal mechanisms to deal with complaints of discrimination and harassment; and

(v) conduct information and advocacy campaigns to promote gender equity and equality; and

(c) audit laws, policies and practices with a view to eliminating all forms of discrimination against any gender.

(3) An action plan for achieving gender equity and equality shall be developed by a public body within two years after the commencement of this Act and be submitted to the Ministry responsible for gender.

(4) The Ministry responsible for gender shall consult with the Human Rights Commission and other stakeholders before finalising and approving an action plan for a public body submitted in accordance with subsection (3).

18. (1) A private body shall—

- (a) develop equity and equality plans, codes of practice, regulatory mechanisms and other appropriate measures for the effective promotion of gender equity and equality in the area of its operation;
- (b) enforce and monitor the enforcement of the equity and equality plans, codes of practice and regulatory mechanisms developed by the private body; and
- (c) make regular reports to the Ministry responsible for gender, the Commission and other relevant monitoring authorities, as may be prescribed in accordance with subsection (2).

Promoting
gender
equity and
equality by
private
bodies

(2) The Minister shall, by statutory instrument, make regulations on the development and implementation of, and reporting on, equity and equality plans and codes of practice by private bodies, in a manner proportionate to a private body's size, resources and influence.

19. (1) All public bodies and private bodies shall, within their ambit of responsibility, promote gender equity and equality in all spheres of life by—

- (a) changing the conditions and circumstances which hinder achievement of sustainable and substantive gender equity and equality;
- (b) mainstreaming gender in all strategies, policies, programmes and budgets so as to empower and benefit both sexes;
- (c) ensuring accommodation of the needs and interests of both sexes;
- (d) establishing appropriate and special measures designed to recognise and support the multiple roles of women;
- (e) enforcing gender equity and equality legislation, policies and strategies by—
 - (i) setting targets to improve compliance with such legislation, policies and strategies;
 - (ii) auditing factors that cause and contribute to noncompliance with such legislation, policies and strategies;

Promoting
gender
equity and
equality by
public and
private
bodies

- (iii) encouraging and rewarding compliance with such legislation, policies and strategies;
- (iv) activating sanction for non-compliance with such legislation, policies and strategies; and
- (v) implementing appropriate corrective measures that may be needed to improve and achieve compliance with such legislation, policies and strategies.
- (2) All public bodies and private bodies shall implement special measures which actively seek to—
- (a) eliminate all forms of discrimination;
- (b) afford both sexes equal representation and participation in all spheres of life; and
- (c) eliminate the exploitation of both sexes in the labour market.
- Right to nationality** **20.** (1) A woman has an equal right with a man to acquire, change or retain her nationality.
- (2) A woman has an equal right with a man to determine the nationality of their children.
- Sexual reproductive rights** **21.** (1) A woman has a right to adequate sexual and reproductive health, which includes the right to—
- (a) access sexual and reproductive health services;
- (b) access family planning services;
- (c) be protected from sexually transmitted infection;
- (d) self-protection from sexually transmitted infections;
- (e) choose the number of children and when to bear those children;
- (f) control fertility;
- (g) reproductive rights education; and
- (h) choose an appropriate method of contraception.
- (2) Subject to any other written law, a woman has the right to choose whether or not to have a child.
- Marriage and family life** **22.** (1) A woman has, on an equal basis with a man, power to decide and act on all matters relating to marriage and family life, including the same right—
- (a) to freely choose a spouse;
- (b) to enter into or leave a marriage;

- (c) to decide freely and responsibly on the spacing and number of children and to have access to information, education and means to exercise these rights;
- (d) as a parent, irrespective of her marital status, in matters relating to children;
- (e) to guardianship, wardship, trusteeship and adoption of children;
- (f) with her spouse, to choose a family name;
- (g) to choose a profession or an occupation; and
- (h) to own, acquire, manage, administer, enjoy and dispose of property.

(2) The best interest of the child shall be the paramount consideration in matters provided for in paragraphs (d) and (e) of subsection (1).

23. (1) The Minister shall, in consultation with the Ministers responsible for finance and commerce develop policies and cause to be enacted laws that ensure equal access, benefits and opportunities for both sexes in trade and entrepreneurship, taking into account, especially the contribution of women in the formal and informal sectors.

Economic
empowerment

(2) The Minister shall, in liaison with appropriate public bodies, establish special measures to—

- (a) empower women to enable them participate fully in economic life across all sectors and activities;
- (b) promote women's access to economic opportunities and productive resources, including the control and ownership of economic production processes; and
- (c) facilitate the development of human, technical and financial capacity for empowerment of women to achieve sustainable socio-economic development.

24. (1) The Ministry responsible for gender shall, in liaison with the Commission, ensure the equal participation of both sexes in decision making by formulating and implementing policies, strategies and programmes for—

Equal
representation
and
participation

- (a) building the capacity of women to participate effectively in decision making through leadership and gender sensitive training and mentoring;

(b) providing support structures for women in decision making positions; and

(c) changing discriminatory attitudes and norms of decision making structures and procedures.

(2) All public bodies and private bodies shall, within their ambit of responsibilities, develop special measures to achieve at least fifty percent representation and attain meaningful participation of women in decision making structures, which shall include—

(a) setting targets for such representation and participation;

(b) building women's capacity to participate;

(c) enhancing the understanding and attitudes of men in accepting the capabilities and participation of women as their equals; and

(d) developing support mechanisms for women for the progressive realisation towards fifty percent representation and meaningful participation of women.

(3) The Ministry shall ensure the inclusion of men in all gender related activities, including gender training and community mobilization.

Gender equity and equality measures in education curriculum

25. (1) The Minister responsible for education, in liaison with the Minister, shall adopt and implement gender sensitive educational policies and programmes addressing gender stereotypes in education and gender- based violence and other gender issues.

(2) The Minister responsible for education shall take measures to ensure that the curriculum for all educational institutions—

(a) integrates principles of gender equity and equality in the spiritual, moral, cultural and mental development of students;

(b) integrates gender issues and human rights;

(c) addresses the special needs of female students by incorporating life skills, including sex education; and

(d) introduces subjects that enhance the integration of female students in disciplines that are traditionally male dominated.

26. (1) The Minister shall, in consultation with the relevant Ministers, put in place special measures on gender equity and equality to meet particular challenges facing women living in rural and peri-urban areas and recognise the significant role that such women play in the economic survival of their families, especially in the non-monetised sectors of the economy.

Special gender equity and equality measures for women in rural and peri-urban areas

(2) The Minister shall, when putting in place the special measures, in accordance with subsection (1), ensure that women living in rural and peri-urban areas benefit from development and in that respect—

- (a) participate in the elaboration and implementation of development planning at all levels;
- (b) access adequate health care facilities, including information, counseling and services in family planning;
- (c) benefit directly from social security programmes;
- (d) obtain all types of training and education, formal and non-formal, including functional literacy and the benefit of all community and extension services, in order to increase their proficiency;
- (e) organise self-help groups and cooperatives in order to obtain access to economic opportunities through employment or self employment;
- (f) participate in all community activities;
- (g) access agricultural credit and loans, marketing facilities, appropriate technology, land allocation and agrarian resettlement schemes; and
- (h) enjoy adequate living conditions, including housing, sanitation, electricity, water supply, transport and communications.

PART V

ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

27. (1) There shall be no discrimination against women in economic and social life.

Elimination of discrimination in economic and social life

(2) The Minister, in consultation with the Ministers responsible for finance and commerce, shall take appropriate measures in the social and economic fields, especially in the access to and control of resources by women, to ensure the full development and advancement of women on an equal basis with men.

(3) A public body and private body shall take appropriate measures to ensure that a woman, has the same rights as a man to—

- (a) family and pension benefits;
- (b) allocation and acquisition of land and other property; and
- (c) bank loans, mortgages and other forms of financial credit.

Elimination
of adverse
social and
cultural
practices
and conduct

28. (1) There shall be no adverse social or cultural practices imposed on, developed for, or against, women.

(2) The Minister shall, in consultation with the Ministers responsible for community development, culture and traditional affairs and relevant public or private bodies, take appropriate measures to—

- (a) modify or change the social and cultural practices and patterns of conduct of women and men so as to eliminate prejudices and customary practices which are based on the inferiority or superiority of either sex or on stereotyped roles for women and men;
- (b) ensure that family education includes a proper understanding of maternity as a social function and recognise the common responsibility of a man and woman in the upbringing and development of their children, taking into account that the best interest of the child is the primary consideration in all cases; and
- (c) ensure the participation of women, on an equal basis with men, in recreational activities, sports and all aspects of cultural life.

(3) A person shall not commit, engage in, subject another person to, or encourage the commission of a harmful practice.

(4) A person who contravenes subsection (1) or (2) commits an offence and is liable, upon conviction, to the general penalty provided under section *fifty-six*.

Elimination
of
discrimination
in public
and political
life

29. (1) Subject to any written law prescribing qualifications, criteria or restrictions which are not discriminatory, a woman has, on an equal basis with a man, the same right to—

- (a) vote in elections and referenda and to be eligible for election to publicly elected bodies;
- (b) participate in public decision making and formulate and implement Government policies and programmes;

- (c) hold public office and perform public functions at all levels of Government;
- (d) join, and participate in the activities of, non-governmental organisations and associations; and
- (e) represent the Government at the international level and participate in the work of international organisations.

(2) A public body and private body shall take appropriate measures to eliminate discrimination against women in political and public life.

30. (1) A woman shall, on an equal basis with a man, have the same right to education.

Elimination of discrimination in education and vocational guidance

(2) A person, public body or private body shall not discriminate against a woman—

- (a) by putting in place arrangements for the purposes of determining who shall be offered training; and
- (b) in the terms and conditions of accessing training courses, facilities or services, including vocational counseling and guidance.

(3) The Minister responsible for education shall, in consultation with the Minister, take appropriate special measures to eliminate discrimination against women in the field of education by—

- (a) ensuring equality of both sexes in career and vocational guidance training, access to studies and the achievement of educational awards;
- (b) eliminating stereotyping at all levels and in all forms of education by encouraging co-education and, in particular, revising textbooks, school programmes and adapting teaching methods;
- (c) giving both sexes the same opportunities to access and benefit from scholarships and other study grants;
- (d) ensuring both sexes have the same opportunities in accessing programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing gaps in education between women and men;
- (e) endeavouring to curb female student dropout rates and organising programmes for girls and women who left school prematurely, including the re-entry into school of female students who have left school on account of pregnancy;

- (f) ensuring that both sexes have the same opportunities to participate actively in sports and physical education;
- (g) enhancing the capacity of teachers in guidance and counselling; and
- (h) ensuring that both sexes have access to specific educational information.

(4) An educational institution shall provide sanitary facilities that take into account the specific needs of both sexes.

(5) The Minister responsible for education shall put in place measures to ensure that educational institutions issue guidelines that facilitate compliance with this section.

(6) A person, public body or private body shall not—

- (a) exclude women from educational institutions, including women with special needs, based on discrimination;
- (b) withhold scholarships, bursaries, or any other form of assistance from women of a particular group, based on discrimination; or
- (c) fail to reasonably and practicably accommodate diversity in education.

(7) A person who contravenes subsection (2) or (6) commits an offence and is liable, on conviction, to a fine not exceeding one thousand penalty units or to imprisonment for a period not exceeding three months, or to both.

Elimination
of
discrimination
in
employment

31. (1) A woman has, on an equal basis with a man, the same right to access employment opportunities and work in all sectors of the economy, in particular the same right to—

- (a) the application of the same qualifications and criteria for selection for employment;
- (b) choose a profession and field of employment;
- (c) promotion, job security and the benefits of conditions of service;
- (d) receive vocational training and retraining, including apprenticeship, advanced vocational training and recurrent training;
- (e) equal remuneration, benefits and treatment in respect of work of equal value as well as equality of treatment in the evaluation of the quality of work;

- (f)* paid leave and social security; and
 - (g)* protection of conditions of work, accessibility of work place and occupational health and safety.
- (2) An employer shall not discriminate against a woman—
 - (a)* when advertising jobs;
 - (b)* in the selection criteria for employment;
 - (c)* in the terms and conditions on which employment is offered;
 - (d)* when making promotions, selection for training, retraining, vocational training, apprenticeship or access to other opportunities for advancement;
 - (e)* when determining remuneration, benefits, retirement and social security;
 - (f)* in the provision of facilities related to, or connected with, employment; and
 - (g)* in conditions of work or occupational health and safety.
- (3) An employer shall not discriminate against a woman by dismissing or demoting the woman on the basis of sex, marriage, disability, pregnancy or maternity leave or subject the woman to any other disadvantage in employment.
- (4) A person, public body or private body shall not—
 - (a)* create artificial barriers to equal access to employment opportunities by using discriminating recruitment and selection procedures;
 - (b)* apply human resource utilisation, development, promotion and retention practices which discriminate against women;
 - (c)* fail to respect the principle of equal pay for equal work; or
 - (d)* perpetuate disproportionate income differentials deriving from past discrimination.
- (5) An employer shall —
 - (a)* take appropriate measures to eliminate discrimination against women in the workplace;
 - (b)* ensure women are awarded maternity leave with pay, mother's day and comparable social benefits without loss of employment, seniority or social allowances; and
 - (c)* provide special protection to women during pregnancy from harmful work.

(6) A person who contravenes subsection (2), (3) or (4) commits an offence and is liable, on conviction—

(a) to a fine not exceeding twenty thousand penalty units or to imprisonment for a period not exceeding six months, or to both; and

(b) for a second and subsequent offence, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Elimination
of
discrimination
in health
care services

32. (1) The Minister responsible for health shall, in consultation with the Minister, take appropriate measures to ensure that women access health care services on an equal basis with men, including—

(a) health related information and education; and

(b) rights in family planning.

(2) A woman has a right to appropriate services in connection with pregnancy, confinement and post-natal care, including adequate nutrition during pregnancy and lactation.

(3) A health officer shall—

(a) respect the sexual and reproductive health rights of every person without discrimination;

(b) respect the dignity and integrity of every person accessing sexual and reproductive health services;

(c) provide family planning services to any person demanding the services, irrespective of marital status or whether that person is accompanied or not accompanied by a spouse;

(d) impart the information necessary for a person to make a decision whether or not to undergo procedures, or to accept any service, affecting their sexual and reproductive health;

(e) record the manner in which the information imparted to the person seeking reproductive health services was given and whether it was understood; and

(f) obtain the written consent of a person being offered sexual and reproductive healthcare services or family planning services before performing any procedure or offering any service.

(4) A person who contravenes this section commits an offence and is liable, on conviction, to the general penalty provided under section *fifty-six*.

33. (1) A public officer shall not discriminate against, harass or victimise a woman in the exercise of public functions.

Elimination of discrimination in exercise of public functions

(2) A person who has power to make a recommendation for, or give approval of, an appointment to a public office shall not discriminate against a woman.

34. (1) A professional association, trade union, an organisation of employers or other organisation, whose members carry on a particular profession or trade for the purpose of which the organisation exists, shall not discriminate against a woman—

Elimination of discrimination in professional or trade organisation

(a) by refusing or failing to accept that woman's application for membership;

(b) in its membership processes; or

(c) in the case of a woman who is a member of the organisation by—

(i) denying, limiting or deliberately refusing to afford access to any benefits, facilities or services provided by the organisation;

(ii) arbitrarily depriving that woman of membership or varying the terms of membership based on discrimination;

(iii) limiting or depriving that woman of access to, or acquisition of, leadership positions within the organisation based on discrimination; or

(iv) subjecting that woman to any other treatment based on discrimination.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction—

(a) to a fine not exceeding one thousand penalty units or to imprisonment for a period not exceeding three months, or to both; or

(b) for a second and subsequent offence, to a fine not exceeding two thousand penalty units or to imprisonment for a period not exceeding six months, or to both.

35. (1) Subject to the provisions of a written law, a qualifying body shall not discriminate against a woman —

Elimination of discrimination by qualifying bodies

(a) by refusing or failing to confer, renew or extend the authorisation or qualification, except as is provided under a written law;

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

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

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction—

(a) to a fine not exceeding one thousand penalty units or to imprisonment for a period not exceeding three months, or to both; or

(b) for a second and subsequent offence, to a fine not exceeding two thousand penalty units or to imprisonment for a period not exceeding six months, or to both.

Elimination
of
discrimination
in disposal
of property

36. (1) A person who has the right to dispose of property shall not discriminate against a woman—

(a) on the terms on which the person offers to dispose of the property to the woman;

(b) by not disposing the property to the woman based on her sex or marital status; or

(c) in the treatment of the woman with respect to things done in relation to the disposal of the property.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction—

(a) to a fine not exceeding one thousand penalty units or to imprisonment for a period not exceeding three months, or to both; or

(b) for a second and subsequent offence, to a fine not exceeding two thousand penalty units or to imprisonment for a period not exceeding six months, or to both.

Elimination
of
discrimination
in provision
of goods,
services and
facilities

37. (1) A person who provides goods, services or facilities shall not discriminate against a woman—

(a) on the terms and conditions on which the goods, services or facilities are provided;

(b) by denying or terminating the provision of the goods, services or facilities based on sex or the marital status of the woman;

- (c) by subjecting the woman to any other detriment or disadvantage in the provision of the goods, services or facilities based on discrimination;
- (d) by imposing terms, conditions or practices that perpetuate the disadvantage of a woman which are based on past discrimination or exclusion with respect to access to financial services or resources; or
- (e) by limiting access to contractual opportunities for supplying goods and services.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction—
- (a) to a fine not exceeding one thousand penalty units or to imprisonment for a period not exceeding three months, or to both; or
- (b) for a second and subsequent offence, to a fine not exceeding two thousand penalty units or to imprisonment for a period not exceeding six months, or to both.
- 38.** A person who subjects a woman to gender based violence, as provided under the Anti-Gender Based Violence Act, 2011, discriminates against the woman and such discrimination shall be an aggravated action as provided under that Act.
- 39.** (1) A person is entitled not to be sexually harassed.
- (2) A person shall not commit an act of sexual harassment.
- (3) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to imprisonment for a period of not less than three years and not exceeding fifteen years.
- 40.** (1) The Minister shall develop and implement appropriate policy and procedures to eliminate sexual harassment which shall —
- (a) entitle a person who has been subjected to sexual harassment to raise a grievance and be guaranteed appropriate disciplinary procedures and action against the perpetrator;
- (b) entitle a person who has been subjected to sexual harassment to lodge a grievance with the Commission or an employer of the perpetrator where the conduct giving rise to the complaint has taken place at the workplace or in the course of being employed;

Discrimination
in relation to
gender-
based
violence
Act No. 1 of
2011

Prohibition
of sexual
harassment

Policy and
procedures
on sexual
harassment

(c) entitle all persons, employees, job applicants and other persons who have dealings with an employer, to be treated with dignity; and

(d) oblige a person in a supervisory role to—

- (i) implement the policy and procedures and impose disciplinary action against employees who do not comply;
- (ii) deal expeditiously, sensitively and confidentially with all allegations of sexual harassment;
- (iii) protect persons against victimisation, retaliation or false accusation for lodging grievances;
- (iv) explain the procedure to be followed by persons who are victims of sexual harassment;
- (v) communicate the sexual harassment policy and grievance procedures effectively to all persons, including employees; and
- (vi) designate persons as may be prescribed, by statutory instrument, whom a person who has been subjected to sexual harassment may approach for confidential advise and counselling.

(2) A person who has been subjected to sexual harassment need not have exhausted internal sexual harassment procedures before prosecution of the offence is commenced or civil proceedings are instituted.

PART VI

COMPLAINTS AND INVESTIGATIONS

Lodging of
complaint

41. (1) A person who alleges that any person, public body or private body has contravened this Act may lodge a complaint, as may be prescribed, with the Director in the prescribed manner and form.

(2) The Director shall reject a complaint or allegation made after a period of two years from the date on which the facts giving rise to the complaint or allegation became known to the person making the complaint or the allegation.

Consideration
of complaint

42. (1) The Director shall, on receipt of a complaint made in accordance with section *forty-one* determine whether an investigation is warranted.

(2) The Commission may refuse to conduct an investigation or discontinue the investigation where it determines that the—

- (a) complaint or allegation is malicious, frivolous or vexatious;
- (b) particulars accompanying the complaint or allegation are insufficient to allow a proper investigation to be conducted; and
- (c) conduct to which the complaint or allegation relates is or has been the subject of an investigation or other action by another appropriate authority under any other written law.

(3) The Commission shall, where it decides not to conduct an investigation or discontinue an investigation, inform the complainant in writing and give reasons therefor.

(4) The Commission may make such orders and give such directions as it considers necessary for the purpose of an investigation.

(5) The Commission may make such orders with respect to any remedies or compensation, as may be prescribed by the Minister, by statutory instrument, that a person shall be entitled to for any contravention of this Act resulting in the denial or breach of a right or discrimination occurring.

43. (1) The Commission may investigate any contravention of, or non-compliance with, this Act—

Investigation
by
Commission

- (a) on its own initiative; or
- (b) on receipt of a complaint made in accordance with section *forty-one* by—
 - (i) a complainant acting in such person's own interest;
 - (ii) an association acting in the interest of its members;
 - (iii) a person acting on behalf of a complainant; or
 - (iv) a person acting on behalf and in the interest of a group or class of persons.

(2) The Commission may, for purposes of an investigation—

- (a) issue summons or orders requiring the attendance of a public body, private body or person before the Commission and the production of any document or record relevant to the investigation;

(b) question any public body, private body or person in respect of any matter under investigation before the Commission;

(c) require any public body, private body or person to disclose any information relevant to the investigation; and

(d) recommend the punishment or prosecution of any person found by the Commission to have contravened this Act.

(3) A person summoned under subsection (2) shall be examined under oath or affirmation to be administered by the Secretary.

(4) The Commission shall not investigate a matter which is before a court.

(5) The Commission may direct that a person or category of persons shall not be present at the proceedings or during an investigation, if it is in the interest of justice or if harm might be caused to any person.

(6) A person shall not disclose to any other person the contents of any document in the possession of a member or employee of the Commission or the record of evidence given before the Commission during an investigation, unless the Commission otherwise determines.

(7) If it appears to the Commission, during the course of an investigation that a person is implicated in the matter being investigated, the Commission shall afford that person an opportunity to be heard in connection with the matter by way of giving evidence or making of submissions, and such person or that person's legal representative shall be entitled to question other witnesses, by leave of the Commission, who have appeared before the Commission.

Request for
information

44. (1) The Director may, by notice in writing, require a public body, private body or person who is being investigated or any other public body, private body or person that the Director has reason to believe may have information or documents relevant to an investigation to—

(a) supply the information; or

(b) produce for inspection any document in their possession or custody as is specified in the notice.

(2) Subsection (1) shall apply without prejudice to a person's rights under any other law relating to privilege.

- 45.** The Commission may, at any stage of investigating or dealing with a matter under this Act, refer the matter to—
- (a) the Human Rights Commission to be dealt with in accordance with the Constitution, this Act and other relevant law;
 - (b) the Investigator-General to be dealt with in accordance with the Constitution, this Act and other relevant law; or
 - (c) any other relevant authority concerned or dealing with the matter.
- 46.** Where the Commission commences an investigation or is investigating a matter relating to a contravention or non-compliance of this Act and the matter is being dealt with by an institution referred to under section *forty-five*, the Commission may—
- (a) continue to investigate or decide on the matter and share its findings with the institution concerned;
 - (b) refer the matter to the institution concerned and request a report on the matter, once the matter has been finalised; or
 - (c) join the institution investigating the matter and produce a joint report.

PART VII

GENERAL PROVISIONS

- 47.** (1) The Minister may issue a directive to a person, public body or private body which the Minister, on reasonable grounds, believes is not substantially complying with this Act or applicable legislation.
- (2) A directive issued in accordance with subsection (1), may require a person, public body or private body to submit a written report, within a period specified by the Minister, containing information, within the scope and ambit of that body's responsibilities, regarding any or all of the following:
- (a) progress in the elimination of all forms of discrimination against women;
 - (b) measures and special measures put in place to achieve gender equity and equality;
 - (c) progress on gender main streaming;

- (d) the status of women representation in management structures and participation of women in decision-making;
- (e) annual numerical goals towards increasing women empowerment;
- (f) disaggregated gender, age and disability related data on women empowerment; or
- (g) any other matter as may be prescribed, by the Minister, by statutory instrument.

(3) The directive issued in accordance with subsection (1) shall clearly state—

- (a) who it is addressed to;
- (b) the issues, including statistics with disaggregated data to report on;
- (c) the documentation to be submitted to substantiate any information provided in the report;
- (d) the time frames, as determined by the Minister, for the submission of the report; and
- (e) the address where the report shall be submitted.

(4) The executive head of a public body or private body shall be liable for the failure of the public body or private body to comply with a directive.

Compliance
notice by
Minister

48. (1) If a person, public body or private body fails to report, as provided for under section *forty-seven* the Minister may, in writing, issue a compliance notice to the person, public body or private body to report, as instructed, within the time frames provided in the compliance notice.

(2) If, based on a report submitted in accordance with section *forty-seven*, or upon failure to comply with a directive, the Minister may issue a compliance notice to that person, public body or private body.

(3) A compliance notice, referred to in subsection (1), shall include a copy of the directive issued by the Minister and shall clearly state—

- (a) the conditions and time frames for submission of the report;
- (b) the address where the report shall be submitted;
- (c) who the addressee is;

- (d) the provisions of this Act or applicable written law that has not been complied with;
- (e) the details of the nature and extent of non-compliance;
- (f) the required corrective measures to be taken to address discrimination and achieve gender equity and equality in compliance with this Act and other written law;
- (g) the period within which the corrective measures shall be taken;
- (h) the form and time frames for submission of the report; and
- (i) the enforcement measures that the Minister intends to impose in the event of non-compliance with the directive or compliance notice.

(4) A person who willfully and unlawfully fails to comply with a compliance notice issued under this section commits an offence and shall be liable, on conviction, to a fine not exceeding three thousand penalty units or to a term of imprisonment for a period not exceeding three years, or to both.

(5) A court may consider as an aggravating circumstance the fact that a person, public body or private body committed the offence with deliberate disregard for the provisions of this Act.

(6) The executive head of a public body or private body shall be liable for the failure of the public body or private body to comply with a compliance notice.

49. (1) An authorised officer may, where the authorised officer reasonably suspects that an offence is being, has been or is about to be committed under this Act, without a warrant, enter and search any premises, other than a private dwelling, except where the private dwelling is used for business purposes, for the purpose of attaching and removing, if necessary, any record, return, report, document or article, if the owner, occupier of the premises or other person in control of the premises consents to the entry, search, seizure and removal of the record, return, book, document or article.

Search without warrant

(2) An authorised officer exercising a power under this section shall, before entering and searching any premises, ensure that the owner, occupier or person in control of the premises is present.

50. (1) The Director or an authorised officer may apply to a Judge or a magistrate for a warrant to search a premise.

Search with warrant

(2) A Judge or magistrate to whom an application for a warrant to search a premise is made, in accordance with subsection (1), may issue the warrant if—

(a) there are reasonable grounds to believe that —

(i) a person has failed to produce the document required for purposes of this Act;

(ii) a person has failed to answer any question asked for purposes of an investigation or that an answer given to any question is false or misleading in a material particular or is incomplete; or

(iii) it is not practicable to serve a notice on a person by reason of the fact that the person cannot be located or is absent from Zambia, or that the service of a notice might prejudice an investigation; or

(b) there are reasonable grounds to believe that any document or other thing relevant to an investigation or that may be evidence of an offence under this Act is placed, deposited or concealed in the premises to which the warrant relates.

(3) A warrant issued, in accordance with subsection (2), shall confer on the Director or authorised officer power to—

(a) access all books, records, returns, reports and other documents relating to the work or operations of the persons, public body or private body;

(b) enter and search, at any time within reasonable hours, the premises of any person, public body or private body or any conveyance, where the Director or authorised officer has reasonable grounds to believe that any thing used in the commission of an offence under this Act has been placed, deposited or concealed;

(c) search for and remove any document or other thing that may be relevant to an investigation or may be evidence of an offence;

(d) where necessary, take copies of any document or extracts from any document that the person executing the warrant believes on reasonable grounds may be relevant to an investigation; and

(e) where necessary, to require a person to reproduce, or to assist in reproducing, in usable form, any information recorded or stored in any medium.

(4) In the exercise of the powers of entry and search conferred under paragraph (b) of subsection (3), the Director, or authorised officer may use such reasonable force as is necessary and justifiable in the circumstances, and may be accompanied or assisted by such other law enforcement officers as they consider necessary to assist them to enter into, or upon, any premises or upon any conveyance, as the case may be.

(5) A law enforcement officer who accompanies or assists the Director or authorised employee to enter into or upon any premises or conveyance, as the case may be, shall, during the period of such accompaniment or assistance, enjoy the same immunity as conferred in paragraph 6 of the Schedule on an employee of the Commission.

51. The Director or authorised officer may arrest a person, without warrant, if the Director or authorised officer has reasonable grounds to believe that the person has committed or is about to commit an offence under this Act and shall comply with section *thirty-two* of the Criminal Procedure Code.

Power to
arrest

Cap. 88

52. (1) Subject to subsection (2), the Commission may order that the expenses or a portion of the expenses incurred by any person in the course of, or in connection with, an investigation by the Commission, be paid from moneys appropriated by Parliament to the Commission.

Compensation
for expenses

(2) A person appearing before the Commission who is not in the Public Service shall be entitled to receive monies appropriated for witness fees in an amount equal to the amount which the person would have received as witness fees for the attendance as a witness in criminal proceedings before a court.

53. (1) The Commission may disclose, to any person, the findings, points of view, observations, comments or recommendations of a matter investigated by it.

Disclosures
and reports
by
Commission

(2) The Commission shall, at any time, submit a report to the President and the National Assembly when required to do so.

54. The Commission may recommend to an appropriate authority or a complainant, as the case may be—

Recommended
action by
Commission

(a) the release of a person from detention;

(b) the payment of compensation to a victim of discrimination or to the victim's family;

(c) that the complainant seeks redress in a court of law: or

(d) such other remedy or action as it considers necessary to compensate for the discriminatory decision, condition or action.

Civic
awareness
and
empowerment
training

55. (1) The Commission may, in consultation with the Minister responsible for information—

- (a) design and develop programmes that create awareness of gender equity and equality;
- (b) develop programmes that create awareness of sexual harassment and that provide assistance and social support for victims of sexual harassment; and
- (c) enlist the services of traditional leaders and non-governmental organisations in disseminating information and in conducting other activities connected with awareness programmes.

(2) The Commission shall undertake or cause to be undertaken training programmes on gender equity and equality, the provisions of this Act and empowerment.

General
penalty

56. A person who contravenes a provision of this Act for which a specific penalty is not provided shall be liable to a fine not exceeding three thousand penalty units or to a term of imprisonment for a period not exceeding five years, or to both.

Regulations

57. The Minister may, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.

SCHEDULE

(Sections 6(2) and 10(2))

THE GENDER EQUITY AND EQUALITY COMMISSION

PART I

ADMINISTRATION OF COMMISSION AND BOARD

Proceedings
of Board

1. (1) Subject to the other provision of this Act, the Board may regulate its own procedure.

(2) The Board shall meet for the transaction of business, at least once in every three months at such places and times as the Chairperson may determine.

(3) A meeting of the Board may be called by the Chairperson upon giving notice of not less than fourteen days and shall be called if not less than one-third of the members so request, in writing, except that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving of a shorter notice by three members of the Board.

(4) The Chairperson with four other members shall constitute a quorum at a meeting of the Board.

(5) There shall preside at any meeting of the Board—

(a) the Chairperson;

(b) in the absence of the Chairperson the Vice-Chairperson;
and

(c) in the absence of the Chairperson and Vice-Chairperson,
such member as the members present may elect from
amongst themselves for the purpose of the meeting.

(6) A decision of the Board on any question shall be determined by a majority of votes of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have, in addition to a deliberative vote, a casting vote.

(7) The Board may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of a meeting of the Board but that person shall have no vote.

(8) The validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or by a defect in the appointment of any member or by reason that any person not entitled to do so, took part in the proceedings.

(9) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board and every meeting of any committee established by the Board.

2. (1) Subject to the other provisions of this Act, a member of the Board shall hold office for a period of three years from the date of appointment and may be reappointed for a further like period.

Tenure of
office of
member and
vacancy

(2) The office of a member becomes vacant if the member—

(a) dies;

(b) is adjudged bankrupt;

(c) is absent from three consecutive meetings of the Board of
which the member has had notice, without the prior
approval of the Board;

(d) resigns from office;

(e) becomes mentally or physically incapable of performing
the duties of a member of the Board; or

(f) is convicted of an offence under this Act or any other written
law.

(3) Subject to the other provisions of this Act, a member shall, on the expiration of the period for which the member is appointed, continue to hold office until another member is appointed to succeed that member.

(4) A member may resign from office by giving not less than one month's notice, in writing, to the Chairperson and the Minister.

(5) The Minister shall, where the office of a member becomes vacant, appoint another person in place of the member who vacates office, and such member shall hold office for the remainder of the term.

Allowances
of member

3. There shall be paid to members of the Board or any committee of the Board such allowances as the Board may, with the approval of the Minister, determine.

Disclosure
of interest

4. (1) If a person is present at a meeting of the Board or a committee of the Board at which any matter is the subject of consideration, and in which matter that person or that person's relative, is directly or indirectly interested in a private capacity, that person shall as soon as is practicable after the commencement of the meeting, disclose that interest and shall not take part in any consideration or discussion of, or vote on, any question relating to that matter.

(2) A disclosure of interest made in accordance with subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

Prohibition
of
publication
or disclosure
of
information
to
unauthorised
person

5. (1) A person shall not, without the consent in writing given by or on behalf of the Board, publish or disclose to any unauthorised person, otherwise than in the course of the duties of that person, or in accordance with a law relating to access to information, the contents of any document, communication or information whatsoever, which relates to, or which has come to the knowledge of the person in the course of, that person's duties under this Act.

(2) A person who contravenes sub-paragraph (1) commits an offence and is liable, on conviction, to a fine not exceeding two thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

(3) A person who, having any information which to the knowledge of that person has been published or disclosed in contravention of subparagraph (1), unlawfully publishes or communicates the information to any other person, commits an offence and is liable on conviction, to a fine not exceeding two thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

6. An action or other proceeding shall not lie or be instituted against a member of the Board or a committee of the Board, or an employee of staff of the Commission, for or in respect of any act or thing done or omitted to be done in good faith in the exercise or performance, or purported exercise or performance, of any of the powers, functions or duties conferred under this Act.

Immunity of members and employee of Commission

PART II

FINANCIAL PROVISIONS

7. (1) The funds of the Commission shall consist of such monies as may—

Funds of Commission

- (a) be appropriated to the Commission by Parliament for the purpose of the Commission;
- (b) be paid to the Commission by way of fees, loans, grants or donations; and
- (c) otherwise vest in or accrue to the Commission.

(2) The Commission may, subject to the approval of the Minister—

- (a) accept monies by way of grants or donations from any source within or outside Zambia; and
- (b) raise by way of loans or otherwise, such moneys as it may require for the discharge of its functions.

(3) There shall be paid from the funds of the Commission—

- (a) the salaries, allowances, loans, gratuities and pensions of employees of the Commission;
- (b) such reasonable travelling and other allowances for members of the Board or any committee of the Board when engaged on the business of the Commission at such rates as the Board may, with the approval of the Minister, determine; and
- (c) any other expenses incurred by the Commission in the performance of the Commission's functions under this Act.

(4) The Board may, with the approval of the Minister, invest in such manner as it considers appropriate such funds of the Commission as it does not immediately require for the discharge of its functions.

Financial
year

8. The financial year of the Commission shall be the period of twelve months ending on 31st December in each year.

Accounts

9. (1) The Commission shall cause to be kept proper books of account and other records relating to its accounts.

(2) The Commission shall, within ninety days of the expiry of the financial year, submit to the Minister a report concerning its activities during the financial year.

(3) The report referred to in sub-paragraph (2) shall include statements of income and expenditure and a statement of the financial affairs of the Commission and a balance sheet.

(4) The accounts of the Commission shall be audited annually or whenever necessary by the Auditor-General.

(5) The auditor's fees shall be paid by the Commission.

Annual
report

10. (1) As soon as practicable, but not later than six months after the end of the financial year, the Commission shall submit to the President a report concerning its activities during that financial year.

(2) The President shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subparagraph (1), cause the report to be laid before the National Assembly.
