

EMPLOYMENT (PREVENTION OF DISCRIMINATION) BILL, 2020

EXPLANATORY MEMORANDUM

The Bill would protect persons from discrimination related to employment.

PART I - PRELIMINARY

- Clause 1:** provides the short title.
- Clause 2:** provides definitions for certain terms used in the Bill.

PART II - DISCRIMINATION

- Clause 3:** explains the concept of discrimination.
- Clause 4:** prohibits discrimination in relation to job creation and recruitment.
- Clause 5:** prohibits discrimination in relation to employment, including in terms of promotion, transfer and training.
- Clause 6:** prevents employers from testing an employee or potential employee for a medical condition unless the issue relates to a genuine occupational qualification of the job
- Clause 7:** requires an employer to make reasonable adjustment for employees in relation to certain issues including disability and family responsibility.

PART III - EXCEPTIONS

- Clause 8:** explains the concept of a genuine occupational qualification.

- Clause 9:** relieves an employer from making certain adjustments for an employee where to do so would cause unjustifiable hardship.
- Clauses 10 to 22:** provides certain exceptions to the rules against discrimination. These include measures to achieve equality, for the care of minors, by religious bodies, educational institutions administered in accordance with religious beliefs and charities, in the area of sports and visual and performing arts, where employment is not connected with an employer's business, for the purpose of insurance and measures to comply with court orders and other laws.

PART IV - ENFORCEMENT

- Clause 23:** provides for a person to make a complaint to the Employment Rights Tribunal where he is discriminated against in respect of the creation of jobs or recruitment.
- Clause 24:** requires an employee to first complain to his employer where a fellow employee discriminates against him and, where the discrimination continues, to complain to the Tribunal.
- Clause 25:** provides for an employer to complain to the Tribunal where his employer discriminates against him.
- Clause 26:** permits the making of a complaint where a person is required to be tested for a medical condition as a condition of employment or continued employment.
- Clause 27:** allows for an employee to also complain where an employer fails to make reasonable adjustment for him.
- Clause 28:** provides for complaints by employee representatives and group complaints.

- Clause 29:** empowers the Tribunal to extend the time for making a complaint in appropriate cases.
- Clause 30:** requires that a complaint to the Tribunal be made through the Chief Labour Officer.
- Clause 31:** explains the role of the Chief Labour Officer and the Tribunal upon receipt of a complaint.
- Clause 32:** provides for the determination of complaints by the Tribunal and the remedies that may be awarded.
- Clause 33:** sets out the functions of the Chief Labour Officer.

PART V - MISCELLANEOUS

- Clause 34:** requires the Chief Labour Officer to keep a register of complaints.
- Clause 35:** requires an employer to establish and distribute a policy statement against discrimination. The mandatory terms of the statement are set out in the First Schedule.
- Clause 36:** imposes a duty of confidentiality on an employer who handles the medical records of his employees.
- Clause 37:** proscribes, among other things, victimization of employees who make complaints.
- Clause 38:** empowers the Minister to make regulations.
- Clause 39:** requires the making of consequential amendments to the *Employment Rights Act, 2012* (Act 2012-9). The amendments are set out in the Second Schedule.

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Clause 40: provides for the commencement of the legislation upon Proclamation.