

CHAPTER 267

EMPLOYMENT COMMISSION ACT

To make provision conferring powers upon the Employment Commission and regulating its procedure and to provide for other matters relating to the said Commission or connected with or ancillary to any of the foregoing matters.

(29th July, 1976)*

ACT XXXI of 1976, as amended by [Act XIII of 1983](#); and [Legal Notice 423 of 2007](#).

1. The short title of this Act is the Employment Commission Act. Short title.
2. In this Act, unless the context otherwise requires - Interpretation.
- "the Commission" means the Employment Commission established by article 120 of the [Constitution](#);
- "function" in relation to the Commission means the function assigned to it by the aforesaid section of the Constitution that is to say "to ensure that, in respect of employment, no distinction, exclusion or preference that is not justifiable in a democratic society is made or given in favour or against any person by reason of his political opinion";
- "Secretary" means Secretary to the Employment Commission.
3. (1) The Commission shall have jurisdiction to hear and determine any application made by any person in pursuance of article 120(8) and (9) of the Constitution on the ground that, in respect of employment, a distinction, exclusion or preference that is not justifiable in a democratic society has been made or given to his prejudice by reason of his political opinions. Jurisdiction and powers of the Commission.
- (2) Where an application as aforesaid has been made to the Commission in accordance with the provisions of this Act, the Commission may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of the provisions of article 120(8) of the Constitution:
- Provided that the Commission may, if it considers it desirable so to do, decline to exercise its powers under this section in any case where it is satisfied that adequate means of redress for the alleged distinction, exclusion or preference are or have been available to the applicant under any other law.
- (3) For the purpose of the exercise of its function, the Commission shall have all the powers conferred on the Civil Court, First Hall by the [Code of Organization and Civil Procedure](#). Cap. 12.

*See Government Notice No. 411 of 29th July, 1976.

Additional provisions concerning the power of the Commission.
Amended by:
XIII. 1983.5;
L.N. 423 of 2007.

4. (1) Without prejudice to the generality of the provisions of article 3, the Commission shall have power to order the employment, the non-employment and the termination of employment of any person, as well as the terms and conditions of any employment, the position or rank to be occupied by any person in any employment and any other matter relevant or incidental thereto; and

- (a) where the Commission orders the employment of any person, or a term or condition of employment or the rank or position to be occupied by a person in any employment, or any other matter concerning any employment, any such order shall constitute a contract of employment or a term or condition of employment, or other matter to be observed or complied with in relation to employment, between the persons to whom it relates with effect from the date and in accordance with the provisions contained in the order;
- (b) where the Commission orders the termination of employment of any person, any compliance with such order shall not constitute an unfair dismissal for the purposes of any enactment and, notwithstanding any other enactment, no notice of termination shall be due; but in the case of an order terminating the employment of a person the Commission shall have power to determine whether any compensation should be payable by the employer in respect of such termination and, where such compensation is payable, the Commission shall have power to determine the amount and to order the payment thereof;
- (c) any order or direction made or given by the Commission shall be capable of forced execution.

(2) Without prejudice to the other provisions of this Act and to any other law, any act done or omitted to be done in contravention of any order or direction made or given by the Commission, and any act done or omitted to be done in order to avoid, or having the effect of avoiding, any such order or direction, shall constitute contempt of the Commission and the provisions of article 3(3) shall apply as they apply in the case of contempt of the Civil Court, First Hall:

Provided that the period of detention and the fine (*multa*) to which a person may be sentenced for any such contempt shall be a period of detention not exceeding six months and a fine (*multa*) not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37).

Secretary and staff.

5. (1) There shall be a Secretary to the Employment Commission who shall be a person appointed as such by the Prime Minister or a public officer designated by the Prime Minister to perform the functions of Secretary.

(2) The Commission shall also have such other staff as the Prime Minister may deem necessary and appoint or designate as

aforesaid.

(3) The terms and conditions of service of the Secretary and staff of the Commission shall be such as the Prime Minister may, after consultation with the Commission, from time to time determine.

6. (1) Proceedings before the Commission shall be by application filed with the Secretary.

Procedure before
the Commission.

(2) The application shall state clearly and concisely the facts out of which the complaint arises, the nature of the complaint and the redress sought by the applicant:

Provided that it shall be lawful for the Commission, if the application is allowed, to give any other redress within its jurisdiction which it may consider to be more appropriate.

(3) Default of compliance in the application with the requirements of the foregoing provisions of this section shall not render the application null; but the Commission may, in any such case, require the applicant to remedy, in such manner and within such time as the Commission may deem appropriate, any such default.

(4) The application shall be served on the person or persons from whom or against whom the redress is sought (hereinafter called "the defendant") without any avoidable delay.

(5) The Commission shall set the date for the hearing of the application and shall communicate such date to the applicant and the defendant.

(6) The provisions of this section shall be without prejudice to the powers of the Commission under article 121 of the [Constitution](#).
