

L.N. 173 of 2016**EQUALITY FOR MEN AND WOMEN ACT
(CAP. 456)****Exercise of Rights Conferred on Workers
(Freedom of Movement) Regulations, 2016**

IN exercise of the powers conferred by articles 12(1) and 20 of the Equality for Men and Women Act, the Minister for Social Dialogue, Consumer Affairs and Civil Liberties has made the following regulations:

Citation and
purpose.

1. (1) The title of these regulations is the Exercise of Rights Conferred on Workers (Freedom of Movement) Regulations, 2016.

(2) The purpose of these regulations is to implement Directive 2014/54/EU of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers, which lays down provisions which facilitate the uniform application and enforcement in practice of the rights conferred by Article 45 TFEU and by Articles 1 to 10 of Regulation (EU) No 492/2011.

Interpretation.

2. In these regulations, unless the context otherwise requires:

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"the Act" means the Equality for Men and Women Act;

"the Commission" means the National Commission for the Promotion of Equality for Men and Women established in terms of article 11 of the Act and includes any officer of the Commission duly authorised by it to act on its behalf for any specific purpose under the Act, and the term "Commissioner" shall be construed accordingly;

"victimisation" includes less favourable treatment for having made a complaint to the lawful authorities or for having initiated or participated in proceedings for redress on grounds of alleged breach of the provisions of these regulations, or for having disclosed information, confidential or otherwise, to a designated public regulating body, regarding alleged illegal or corrupt activities being committed by any person falling within the scope of these regulations or by persons acting in such person's name and interests.

Scope.

3. (1) These regulations shall apply to the following matters, as referred to in Articles 1 to 10 of Regulation (EU) No 492/2011, in the area of freedom of movement for workers:

- (a) access to employment;
- (b) conditions of employment and work, in particular as regards remuneration, dismissal, health and safety at work, and, if workers become unemployed, reinstatement or re-employment;
- (c) access to social and tax advantages;
- (d) membership of trade unions and eligibility for workers' representative bodies;
- (e) access to training;
- (f) access to housing;
- (g) access to education, apprenticeship and vocational training for the children of workers; and
- (h) assistance afforded by the employment offices.

(2) These regulations shall apply to citizens of the European Union exercising these rights and to members of their family.

4. (1) Persons who feel that they have encountered or are encountering obstacles to exercise, or have had or are having their right to free movement restricted without justification, shall have a right to file a complaint with the Commissioner even after the relationship in which the obstacle or restriction is alleged to have occurred has ended, and the Commissioner shall initiate the proceedings prescribed in the Act or in any other applicable law or regulation.

Judicial and administrative proceedings.

(2) Persons who feel that the principle of equal treatment within the scope of these regulations has not been applied to them shall have a right to file a complaint with the Commissioner even after the relationship in which the discrimination is alleged to have occurred has ended, and the Commissioner shall initiate the proceedings prescribed in the Act or in any other applicable law or regulation.

5. Without prejudice to the provisions of regulation 4, a person who alleges that any other person has committed in his or her regard any unlawful act under these regulations shall, within twenty-four months of the alleged breach, have a right of action before the competent court of civil jurisdiction requesting the court to order the defendant to desist from such unlawful act and to order the payment of compensation for such damage suffered through such unlawful act.

Compensation for damage.

Defence of
rights.

6. Nothing in these regulations shall prevent any associations, organisations including social partners or other legal entities having a legitimate interest in ensuring that the provisions of these regulations are complied with, from engaging themselves either on behalf or in support of the complainant, with his or her approval, in any judicial and, or administrative procedure as is provided for the enforcement of the rights under these regulations, within twenty-four months of the alleged breach:

Provided that the provisions of this regulation shall apply without prejudice to any other competences and collective rights of social partners and employees' and employers' representatives, where applicable, including the right to take action on behalf of a collective interest.

Victimisation.

7. Victimisation shall constitute prohibited conduct under these regulations and shall be tantamount to discrimination under the Act.

Functions of the
Commission.

8. For the purposes of these regulations, and without prejudice to article 12 of the Act, the functions of the Commission shall include:

(a) providing independent legal assistance to workers and members of their family, without prejudice to the rights of the same workers and members of their family and the rights of associations, organisations and other legal entities mentioned in regulation 6:

Provided that such legal assistance during legal proceedings shall be free of charge to persons who lack sufficient resources;

(b) conducting independent surveys and analyses concerning unjustified restrictions and obstacles to the right of free movement, or discrimination on grounds of nationality of workers and members of their family; and

(c) publishing independent reports and making recommendations on any issue relating to such restrictions, obstacles and, or discrimination.

