

A.L. 316 tal-2011**ATT DWAR L-UGWALJANZA GĦALL-IRĠIEL U N-NISA
(KAP. 456)****Regolamenti ta' l-2011 dwar il-Proċedura ta' Investigazzjoni**

BIS-SAHHA tas-setgħat mogħtija bl-artikolu 18(3) ta' l-Att dwar l-Ugwaljanza għall-Irġiel u n-Nisa, il-Ministru għall-Edukazzjoni, Xogħol u l-Familja, għamel dawn ir-regolamenti li ġejjin:

1. It-titolu ta' dawn ir-regolamenti hu Regolamenti ta' l-2011 dwar il-Proċedura ta' Investigazzjoni. Titolu.

2. (1) F'dawn ir-regolamenti, kemm-il darba r-rabta tal-kliem ma tkunx teħtiegħ xort' oħra: Tifsir.

“Att” tfisser l-Att dwar l-Ugwaljanza għall-Irġiel u n-Nisa; Kap. 456.

“il-Kummissjoni” tfisser il-Kummissjoni Nazzjonali għall-Promozzjoni ta' l-Ugwaljanza bejn l-Irġiel u n-Nisa imwaqqfa taħt l-artikolu 11 ta' l-Att u tinkludi kull uffiċjal tal-Kummissjoni awtorizzat minnha sabiex jaġixxi għan-nom tagħha għal għan partikolari jew għal klassi ta' għanijiet taħt l-Att;

“il-Kummissarju” tfisser il-Kummissarju għall-Promozzjoni ta' l-Ugwaljanza bejn l-Irġiel u n-Nisa maħtur taħt l-artikolu 11 ta' l-Att;

“mġieba hażina” tfisser aġir li allegatament jammonta għal ksur ta' xi dispożizzjoni ta' l-Att;

(2) Kliem u frażijiet użati f'dawn ir-regolamenti għandhom l-istess tifsira mogħtija lilhom fl-Att.

3. (1) Fit-twettiq ta' investigazzjonijiet, kemm dawk mibdija fuq ilment kif ukoll investigazzjonijiet ġenerali, il- Assistenza lill-Kummissarju.

Kummissarju għandu jkun assistit minn membru tal-Kummissjoni u minn persuna li jkollha grad fil-liġi, liema persuna ma hemmx bżonn li tkun impjegata tal-Kummissjoni.

(2) Iż-żewġ persuni msemmija fis-subregolament (1) għandhom jiġu maħtura mill-Kummissjoni biex jassistu lill-Kummissarju f'investigazzjoni partikolari, iżda membru tal-Kummissjoni jew persuna li jkollha grad fil-liġi jistgħu jiġu maħtura sabiex jassistu lill-Kummissarju f'żewġ investigazzjonijiet jew aktar fl-istess ħin:

Iżda l-Kummissjoni tista', jekk jidhrilha xieraq fiċ-ċirkostanzi, taħtar elenku ta' membri tal-Kummissjoni u elenku ta' persuni li jkollhom grad fil-liġi, hekk li minn kull elenku rispettiv membru wieħed tal-Kummissjoni u persuna waħda li jkollha grad fil-liġi jiġu assenjati biex jassistu lill-Kummissarju f'xi investigazzjoni partikolari.

(3) Il-persuni hekk maħtura, jew is-sostituti tagħhom, skont id-dispożizzjonijiet ta' dan ir-regolament biex jassistu lill-Kummissarju, għandhom ikunu preżenti għal kull laqgħa fir-rigward tal-investigazzjoni li għaliha jkunu ġew maħtura.

Ezkluzzjoni tal-pubbliku.

4. (1) Ebda persuna, ħlief il-persuni msemmija fir-regolament 3, il-partijiet fl-investigazzjoni u l-avukat tagħhom, jekk ikun hemm, u xhieda msejġha mill-Kummissarju u persuni oħra li l-Kummissarju jidhirlu li huma direttament konnessi mal-każ m'għandhom jkunu preżenti waqt xi laqgħa tal-investigazzjoni:

Iżda l-Kummissarju jista', fid-diskrezzjoni tiegħu, jeskludi lil kull persuna msemmija f'dan is-subregolament milli tattendi laqgħa, jew xi parti minnha, mingħajr preġudizzju għad-dritt ta' dik il-persuna li jkollha aċċess għall-minuti ta' dik il-laqgħa.

Avviz ta' bidu ta' investigazzjoni u talba għal rapport.

5. (1) Mingħajr preġudizzju għad-dispożizzjonijiet tal-artikolu 5 ta' l-Att, meta tinbeda investigazzjoni fl-eżerċizzju tal-funzjonijiet mogħtija b'artikolu 12(g) u (h) ta' l-Att, il-Kummissarju bl-assistenza tal-Kummissjoni għandu, b' ittra reġistrata, javza lill-partijiet involuti li huwa ser jiftaħ investigazzjoni.

(2) Fl-avviz ta' bidu ta' investigazzjoni mogħti lill-persuna li hija allegatament responsabbli ta' mġieba ħazina, il-Kummissarju għandu jinforma lil dik il-persuna bl-allegazzjoni magħmula fil-konfront tagħha u l-Kummissarju għandu d-dritt

li jitlob lil dik il-persuna biex tippovdi, fi żmien għaxart ijiem, rapport dwar l-allegazzjonijiet magħmula kontra tagħha:

Iżda l-Kummissarju jkollu d-dritt jibda, u jkompli, l-investigazzjoni kemm jekk ir-rapport jintbagħat, mill-persuna hekk mitluba, fiż-żmien stipulat u kemm jekk le.

(3) Fl-avviz ta' bidu ta' investigazzjoni, il-Kummissarju għandu wkoll formalment jitlob lill-partijiet involuti jekk humiex se jrin jaċċettaw li jkunu marbuta bil-konkluzjonijiet tal-Kummissarju skont l-artikolu 18(2) ta' l-Att.

6. (1) Il-Kummissarju, bl-assistenza tal-Kummissjoni, jista' jitlob mingħand kull persuna kull informazzjoni li l-Kummissarju jidhirlu li tkun meħtieġa sabiex titwettaq l-investigazzjoni.

Informazzjoni
meħtieġa għall-
investigazzjoni.

(2) Il-Kummissarju jista', permezz ta' avviz bil-miktub mibgħut b'posta registrata u bl-assistenza tal-Kummissjoni, jitlob lil kwalunkwe persuna:

(a) sabiex tippovdi kull informazzjoni deskritta fl-avviz f'dak iż-żmien hemm indikat;

(b) sabiex tattendi u tagħti informazzjoni bil-fomm dwar il-każ kif indikat fl-avviz u sabiex tipproduċi kull dokument li huwa fil-pussess jew fil-kontroll tagħha li jirrigwarda l-kwistjoni f'laqgħa skedata għal dan il-għan:

Iżda persuna m' għandhiex tkun obbligata tagħti informazzjoni jew tipproduċi dokument mitluba fl-avviz jekk dik il-persuna tkun meqjusa eżenti milli tagħti dik l-informazzjoni jew li tipproduċi dak id-dokument quddiem qorti fi proċedimenti ċivili.

(3) Jekk persuna hekk imsejja skont id-dispożizzjonijiet ta'dan ir-regolament tonqos milli taderixxi mat-talba tal-Kummissarju fiż-żmien stipulat, il-Kummissarju jista', permezz ta' rikors, jitlob lill-Qorti Ċivili, Prim'Awla, biex din tordna lil dik il-persuna taderixxi mal-avviz maħruġ lilha skont is-subregolamenti (1) u (2); il-Qorti tista' wkoll tintalab tagħti kull ordni ieħor li jidhrilha xieraq u meħtieġ skont iċ-ċirkostanzi speċifiċi tal-każ.

7. (1) Investigazzjoni mibdiya wara li jkun gie riċevut ilment għandha tieqaf jekk dak l-ilment jiġi irtirat:

Irtirar ta' l-ilment.

Iżda dan m'għandux jipprojbixxi lill-Kummissarju, bl-assistenza tal-Kummissjoni, milli jibda investigazzjoni ġenerali fuq il-bażi ta' informazzjoni miġbura waqt it-twettieq ta' dik l-investigazzjoni mibdija minn dak l-ilment.

(2) Meta investigazzjoni fuq ilment tiegħi skond isubregolament (1), il-Kummissarju għandu jinforma bil-miktub lil dik il-persuna li tkun ressqet l-ilment kif ukoll lil dik il-persuna kontra min kien imressaq l-ilment, li l-investigazzjoni twaqqfet.

Medjazzjoni.

8. Meta l-Kummissarju jagixxi bħala medjatur bejn il-persuna li ressqet l-ilment u l-persuna li kontra tagħha li jkun sar l-ilment skont artikolu 18(1)(b)(ii) ta' l-Att u l-persuna li kontra tagħha jkun sar l-ilment, jew il-persuna li ressqet l-ilment, tonqos milli taderixxi mal-ftehim negozjat fil-kors tal-medjazzjoni, il-Kummissarju jista', permezz ta' rikors, jitlob lill-Qorti Ċivili, Prim'Awla, biex tordna lill-persuna li hekk tonqos milli taderixxi mat-termini tal-medjazzjoni sabiex tiegħu kull azzjoni rimedjali hekk kif il-qorti tista' tordna.

Proċedimenti.

9. (1) F'każ ta' allegata diskriminazzjoni mwettqa minn persuna kontra persuna oħra u fejn il-Kummissjoni tikkunsidra li jkun xieraq fit-termini tal-artikolu 18(4) tal-Att, il-Kummissjoni tista' tirreferi l-każ lill-qorti kompetenti jew lit-Tribunal Industrijali għal rimedju.

(2) F'każ ta' allegata diskriminazzjoni kif imsemmi fis-subregolament (1), il-Kummissjoni tista', jekk jidhrilha xieraq, tipparteċipa u tintervjeni bħala parti fil-proċedimenti.

L.N. 316 of 2011**EQUALITY FOR MEN AND WOMEN ACT
(CAP. 456)****Procedure for Investigation Regulations, 2011**

IN exercise of the powers conferred by article 18(3) of the Equality for Men and Women Act, the Minister of Education, Employment and the Family, has made the following regulations:-

1. The title of these regulations is the Procedure for Investigation Regulations, 2011. Citation.

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

“the Act” means the Equality for Men and Women Act; Cap. 456.

“the Commission” means the National Commission for the Promotion of Equality 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 a specific purpose or class of purposes under the Act;

“the Commissioner” means the Commissioner for the Promotion of Equality appointed under article 11 of the Act;

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

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

3. (1) In carrying out investigations, whether upon receipt of a complaint or in general investigations, the Commissioner shall be assisted by a member of the Commission and by a person holding a degree in law, who need not be an employee of the Commission. Assistance to the Commissioner.

(2) Both persons referred to in sub-regulation (1) shall be appointed by the Commission to assist the Commissioner in a particular investigation, but a member of the Commission or person holding a degree in law may be appointed to assist the Commissioner on two or more investigations at the same time:

Provided that the Commission may, if in the circumstances it deems it proper to do so, appoint a panel consisting of members of the Commission and a panel consisting of persons holding a degree in law, from which respective panels one member of the Commission and one person holding a degree in law shall be assigned to assist the Commissioner in any particular investigation.

(3) The persons so appointed, or their substitutes, under the provisions of this regulation to assist the Commissioner, shall be present for each meeting of the investigation for which they are appointed.

Exclusion of the public.

4. No person other than the persons referred to in regulation 3, the parties to the investigation and their legal counsel, if any, and witnesses called by the Commissioner or other persons whom the Commissioner considers to be directly concerned in the investigation shall be present at any meeting of the investigation:

Provided that the Commissioner may, at his own discretion, exclude any person referred to in this sub-regulation from attending the meeting, or any part thereof, without prejudice to the right of such person to have access to the minutes of the meeting.

Notice of commencement of investigation and request for report.

5. (1) Without prejudice to the provisions of article 5 of the Act, when commencing an investigation in exercise of the functions referred to in article 12 (g) and (h) of the Act, the Commissioner shall with the assistance of the Commission, notify by means of a registered letter all the parties concerned that he intends to carry out an investigation.

(2) In the notice of commencement of an investigation to the person who is allegedly responsible for the wrongful act, the Commissioner shall inform such person of the allegations made in his regard and shall moreover have the right to request such person to provide, within ten working days, a report on the allegations made:

Provided that the Commissioner shall have the right to commence, and proceed with, the investigation whether the report is submitted, by the person so requested, within the stipulated time or not.

(3) In the notice of commencement of an investigation, the Commissioner shall moreover formally request the parties concerned whether they accept to be bound by the findings of the Commissioner in accordance with article 18 (2) of the Act.

6. (1) The Commissioner, with the assistance of the Commission, may request from any person any information as may be deemed by the Commissioner to be required for the carrying out of the investigation.

Information required for the investigation.

(2) The Commissioner may, by registered written notice and with the assistance of the Commission, request any person:

(a) to provide any information that may be described in the notice within such time as is therein indicated;

(b) to attend and give oral information about the matter specified in the notice and to produce all documents in his possession or control relating to any such matter at a meeting scheduled for such purpose:

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

(3) Where a person so requested, in accordance with the provisions of this regulation, fails to abide by the request of the Commissioner within the stipulated time, the Commissioner may request, by means of an application, the Civil Court, First Hall, to order such person to comply with the notice issued to him in terms of sub-regulations (1) and (2); the court may also be requested to give any other order which it may consider appropriate and required according to the specific circumstances of the case.

7. (1) An investigation commenced upon receipt of a complaint, shall be discontinued upon the withdrawal of the complaint:

Withdrawal of complaint.

Provided that this shall not prohibit the Commissioner, with the assistance of the Commission, from initiating a general investigation on the basis of any information already collected during that investigation initiated on a complaint.

(2) Where the investigation upon receipt of a complaint is discontinued according to sub-regulation (1), the Commissioner shall inform in writing the complainant and the person against whom the complaint is directed that the investigation has been discontinued.

Mediation.

8. Where the Commissioner mediates between the complainant and the person against whom the complaint is directed, in terms of Article 18 (1)(b)(ii) of the Act, and the person against whom the complaint is directed, or the complainant, fails to abide by the terms negotiated during the mediation, the Commissioner may, by means of an application, request the Civil Court, First Hall, to order such person failing to abide by the terms of the mediation to undertake all necessary remedial action as may be ordered by the court.

Proceedings.

9. (1) In the case of an alleged discrimination by one person against another and where the Commission considers it so appropriate in terms of article 18 (4) of the Act, the Commission may refer the matter to the competent court or to the Industrial Tribunal for redress.

(2) In the case of an alleged discrimination as referred to in sub-regulation (1), the Commission may, if it deems it appropriate, join in and become a party to the suit.

