

Sex Discrimination (Formal Investigations) Rules

(Cap. 480, section 88)

(Enacting provision omitted—E.R. 1 of 2013)

(20 December 1996)

*(*Format changes—E.R. 1 of 2013)*

Editorial Note:

*The format of the Rules has been updated to the current legislative styles.

1. *(Omitted as spent—E.R. 1 of 2013)*

2. Interpretation

Where, under section 67 of the Ordinance, the Commission has delegated its functions or powers relating to a formal investigation, any reference in these Rules to the Commission is a reference to the delegate to whom the relevant function or power has been delegated.

3. Service of notices

In these Rules, a reference to a person being served with a notice is a reference to service on that person being effected—

- (a) by delivering it to him personally;
- (b) by sending it by ordinary post to his last known residence or place of business;
- (c) where the person is a body (whether corporate or unincorporate), by delivering it to the secretary or an officer of the body at its registered office or principal office or by sending it by ordinary post to that secretary or such an officer at that office; or
- (d) where the person is acting by a solicitor, by delivering it at, or by sending it by ordinary post to, the solicitor's address for service.

4. Notice of holding of formal investigation

Where, under section 71 of the Ordinance, the Commission is required to give notice of the holding of a formal investigation—

- (a) to any person named in the terms of reference for the investigation; or
- (b) where the terms of reference are revised, to any person named in the revised terms of reference,

the notice served on such person shall set out the terms of reference.

5. Requirement to furnish or give information or produce documents

Where, under section 72(1) of the Ordinance, the Commission requires a person to furnish written information or give oral information or produce documents, the notice served on him shall be in the form set out in Schedule 1 or in a form to the like effect with such modifications or variations as the circumstances may

require.

6. Enforcement notice

An enforcement notice served on a person for the purposes of section 77(2) of the Ordinance shall be in the form set out in Schedule 2 or in a form to the like effect with such modifications or variations as the circumstances may require.

Schedule 1

[s. 5]

Notice to Furnish Written Information or Give Oral Information and Produce Documents

(Under section 72(1) of the Sex Discrimination Ordinance (Cap. 480))

To A.B. of []

For the purposes of the formal investigation being conducted by the Equal Opportunities Commission (“the Commission”) the terms of reference of which [were given to you in a notice dated] / [are set out in the Schedule to this Notice], you are required, under section 72(1) of the Sex Discrimination Ordinance (Cap. 480) (“the Ordinance”)—

(a) [to furnish the following information (description of information to follow)-]

.
. .
. .
. .
. .

(b) [to attend at (insert time) on (insert date) at (insert place) and [give oral information about] / [give oral evidence about, and produce all documents in your possession or control relating to] [the following matters] [the matter of] (specify the matters or matter)-]

.
. .
. .
. .
. .

2. The information described in paragraph 1(a) must be furnished (specify the time or times at which, and the manner and form in which, the information is to be furnished).

Dated this day of 19 ...

This Notice was issued by [the Commission] [(name delegate) to whom the Commission has under section 67(1) of the Ordinance delegated its functions under section 72(1) of the Ordinance].

[Service of this Notice was authorized in writing under section 72(2)(a) of the Ordinance.]

[Having regard to the terms of the reference of the investigation and section 72(2)(b)/section 79 of the Ordinance, service of this Notice does not require the consent of the Chief Secretary for Administration.]

[Commission]

[Delegate]

SCHEDULE

TERMS OF REFERENCE OF INVESTIGATION

(L.N. 362 of 1997)

Schedule 2

[s. 6]

Enforcement Notice

(Issued under section 77 of the Sex Discrimination Ordinance (Cap. 480))

To A.B. of []

In the course of a formal investigation the Equal Opportunities Commission (“the Commission”) has become satisfied that you were committing/had committed an act/acts to which section 77(2) of the Sex Discrimination Ordinance (Cap. 480) (“the Ordinance”) applies, namely (insert particulars of acts)—

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. .
. .
. .

You are therefore required, without prejudice to your other duties under this or any other Ordinance, under section 77(2) of the Ordinance, not to commit any act which is [an unlawful discriminatory act under (insert reference to relevant Part of provision of the Ordinance)] [an unlawful act of

harassment under (insert reference to relevant Part or provision of the Ordinance)] [a contravention of section 42 of the Ordinance] [an act which is in contravention of section 43/44/45 of the Ordinance by reference to Part 3/Part 4 thereof].

If compliance with the above requirement involves changes in any of your practices or other arrangements, you are further required under section 77(2) of the Ordinance to inform the Commission [in the manner specified in this Notice] that you have effected those changes and what those changes are [and to take the following steps for the purpose of making that information available to other persons concerned, namely (specify steps to be taken)].

[You are further required under section 77(3) of the Ordinance to furnish to the Commission [in the manner specified in this Notice] with the following information, in order for it to verify that this Notice has been complied with (description of information to follow)-]

[The information to be furnished by you to the Commission under this Notice must be furnished as follows (specify the time or times at which, and the manner and form in which, the information, or information of a particular description, is to be furnished)-]

Dated this day of 19

[Commission]

[Delegate]

(E.R. 1 of 2013)