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CAYMAN ISLANDS



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**A BILL FOR A LAW TO PROVIDE FOR THE PREVENTION OF  
SEXUAL HARASSMENT; AND TO PROVIDE FOR INCIDENTAL  
AND CONNECTED PURPOSES**

CONSULTATION DRAFT

**THE SEXUAL HARASSMENT BILL, 2012  
MEMORANDUM OF OBJECTS AND REASONS**

**TO BE COMPLETED AFTER CONSULTATION**

CONSULTATION DRAFT

**THE SEXUAL HARASSMENT BILL, 2012**

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CONSULTATION DRAFT

CAYMAN ISLANDS

**A BILL FOR A LAW TO PROVIDE FOR THE PREVENTION OF SEXUAL HARASSMENT; AND TO PROVIDE FOR INCIDENTAL AND CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

**PART 1 - PRELIMINARY**

1. This Law may be cited as the Sexual Harassment Law, 2012 and shall come into force on such date as may be appointed by order made by the Governor in Cabinet.

Short title and commencement

2. In this Law-

Interpretation

“accommodation” includes residential and business accommodation;

“association” includes a group of persons associated together for social, literary, cultural, political, religious, sporting, athletic or for any other lawful purpose;

“complaint” means a grievance made to the Tribunal pursuant to section 21;

“complainant” in relation to a complaint, means the person by whom or on whose behalf a complaint is made;

“court” means the Grand Court or a court of summary jurisdiction;

“educational authority” means a body responsible for the administration of an educational institution or provision of vocational training;

“educational institution” includes a school, college, university or any other institution at which education or training is provided;

“employee” includes-

- (a) any individual who enters into or works under or stands ready to enter into or work under a contract of employment with an employer whether the contract be oral or written, express or implied, full or part-time;
- (b) a person whose services have been interrupted by a suspension of work during a period of leave or temporary lay-off;
- (c) an apprentice; or
- (d) a person on employment probation;

“employer” includes-

- (a) any person who has entered into or stands ready to enter into a contract of employment with an employee;
- (b) an agent or representative of the employer; or
- (c) a supervisor of the employee;

“employment” includes part-time and temporary employment and work under a contract of services;

“employment agency” means any person who, whether for payment or not, assists another person to find employment or other work or assists employers to find employees or workers;

“facilities” includes-

- (a) any place to which members of the public or a section of the public are permitted to enter;
- (b) accommodation in a hotel, boarding house or other similar establishment;
- (c) places providing banking, insurance, grants, loans, credit or finance services;
- (d) places providing education;
- (e) places providing entertainment, recreation, food or refreshment;
- (f) places providing transport or travel; and
- (g) places accommodating any profession or trade;

“gender” means the cultural, economic, social, and political characteristics, roles and opportunities through which women and men are socially constructed and valued;

“institution” includes places of custody and medical and mental facilities;

“landlord” means a person who grants to a person the exclusive right of tenancy of accommodation and includes-

- (a) an agent or a personal or legal representative of, or any other person acting on behalf of, a landlord;
- (b) a person to whom a landlord assigns a tenancy agreement;
- (c) a trustee in bankruptcy, liquidator, receiver or committee appointed by any court or by law in respect of the property of a landlord;
- (d) the purchaser at a judicial sale of the residential premises of a landlord;
- (e) a chargee of the residential premises of a landlord who acquires title thereto by foreclosure or pursuant to a judicial sale thereof, or who enters into possession of the residential premises, and the assignees of such chargee; and
- (f) any person who becomes the owner of property on which residential premises are situated, or that consists of residential premises, with respect to which at the time the person becomes the owner there are subsisting tenancy agreements;

“marital status” means the status or condition of being-

- (a) single;
- (b) married;
- (c) married but living separately and apart from one’s spouse;
- (d) divorced;
- (e) widowed; or
- (f) a man and a woman who, although not married to each other, are living with each other in the same household as husband and wife;

“member” means a member of the Tribunal appointed under section 28;

“respondent” in relation to a complaint, means the person who is alleged to have engaged in sexual harassment conduct;

“services” includes-

- (a) services relating to banking, insurance and the provision of grants, loans, credit or finance;

- (b) services relating to entertainment, recreation, food, refreshment, clothes, household items;
- (c) services relating to transport or travel;
- (d) services of the kind provided by the members of any profession or trade;

“supervisor” in relation to a person, means a fellow employee who by virtue of his employment is in a position of authority over that first-mentioned person;

“tenant” in relation to any accommodation that is the subject of a tenancy agreement, means the grantee of a tenancy of the premises under the agreement and where appropriate, includes-

- (a) a prospective tenant;
- (b) a former tenant;
- (c) a lawful successor in title of a tenant to the premises;
- (d) the personal representative of a deceased tenant; and
- (e) an agent of a tenant;

“third party” means any person who by virtue of his professional relationship with or connection to another person could potentially be exposed to sexual harassment conduct; and

“Tribunal” means the Sexual Harassment Tribunal established under section 25.

## **PART 2 - PROTECTION FROM SEXUAL HARASSMENT**

Commission of an act of sexual harassment

3. (1) A person commits an act of sexual harassment against another person if, having regard to-

- (a) all the circumstances of the case referred to in subsection (3); and
- (b) the effect upon the person against whom the conduct described in subsection (2) is alleged to have been committed,

it is reasonable to conclude that the conduct was directed towards the person alleging sexual harassment and was calculated to-

- (i) offend, humiliate, disrespect or degrade that person;
- (ii) intimidate, threaten or compel that person by putting him in fear of being placed at a disadvantage or prejudiced if he does not submit to the sexually harassing conduct; or
- (iii) create a hostile environment for, or violate the dignity of, that person.

(2) In this section “sexual harassment” includes conduct which involves-

- (a) making an unwelcome sexual advance towards a person;

- (b) making an unwelcome request for sexual favours from a person;
- (c) making an unwelcome sexual comment to a person;
- (d) making an unwelcome sexual comment about a person in his sight and hearing;
- (e) making an unwelcome sexual gesture to a person;
- (f) making unwelcome sexual contact with a person;
- (g) providing a person with unwelcome sexual images or graphics;
- (h) providing a person with unwelcome audio of a sexual nature;
- (i) transmitting unwelcome electronic messages to a person;
- (j) making unwelcome sexual innuendos to a person;
- (k) engaging in conduct of a sexual nature knowing that there is a likelihood that the person to whom the conduct is intended to affect will become aware of the conduct;
- (l) exposing third parties to sexual harassment conduct; or
- (m) engaging in any other form of unwelcome conduct of a sexual nature.

(3) For the purposes of subsection (1), the circumstances to be taken into account include-

- (a) the gender, age, marital status, sexual preference, religious belief, colour, nationality or ethnicity of the person who has alleged sexual harassment;
- (b) the relationship between the person alleging sexual harassment and the person who is alleged to have engaged in the sexually harassing conduct;
- (c) any disability of the person alleging sexual harassment; or
- (d) any other relevant circumstance.

(4) Any conduct described in subsection (2) shall constitute sexual harassment irrespective of-

- (a) the method used to convey the conduct; or
- (b) whether the conduct was committed on a single occasion,

even though some or all of the conduct, when viewed in isolation, may appear minor.

4. (1) An employer shall not sexually harass-

- (a) a person whom he employs;
- (b) a prospective employee; or
- (c) a third party.

(2) An employee shall not sexually harass-

- (a) a fellow employee;

Employer and employee obligations

- (b) a prospective employee;
- (c) his employer; or
- (d) a third party.

Employer's duty to employee

5. An employer who becomes aware, reasonably suspects or is informed of the commission of sexual harassment conduct which is directed to an employee or any person with whom the employer has contracted to facilitate the operations of the place of employment, shall take immediate and appropriate action to prevent the continuation of the conduct.

Liability of employer

6. An employer is liable for the sexual harassment conduct of his agents, supervisors, representatives and employees only if it is proven that he knew, ought reasonably to have suspected or was informed of the commission of such conduct and on becoming aware, suspicious or informed failed to take reasonable steps to prevent the continuation of the conduct.

Sexual harassment policy statement and contents

7. (1) Every employer shall-
- (a) formulate a policy statement concerning sexual harassment in the workplace; and
  - (b) bring the policy statement to the attention of each person under his direction.
- (2) A policy statement required under subsection (1) shall include-
- (a) a definition of sexual harassment that is in accordance with section 3 of this Law;
  - (b) content indicating that every employee is entitled to employment free from sexual harassment;
  - (c) content indicating how the employer will deal with the sexual harassment conduct of his employee where it is directed towards a fellow employee or a third party;
  - (d) content indicating that the employer will take such disciplinary measures as the employer deems appropriate against any person under the employer's direction who subjects any employee or third party to sexual harassment;
  - (e) content explaining how complaints of sexual harassment may be brought to the attention of the employer; and
  - (f) content indicating that the employer will not disclose the name of a complainant or the circumstances related to the complaint to any person except where disclosure is necessary for the purposes of investigating the complaint or taking disciplinary measures.
- (3) An employer who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of five thousand dollars.

8. An employer shall be held liable for sexual harassment if he refuses to provide an employee with any employment benefits because of that employee's refusal to submit to sexual harassment. Denial of employment benefits and opportunities
9. (1) An employer shall not engage in any action which adversely affects an employee who has rejected the employer's sexual harassment conduct and who pursuant to this Law has-
- (a) made a sexual harassment complaint;
  - (b) instituted sexual harassment proceedings;
  - (c) given testimony in sexual harassment proceedings; and
  - (d) collaborated or participated in any investigation, procedure or hearing involving sexual harassment conduct.
- (2) An employer who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of five thousand dollars or imprisonment for a term of one year or both.
10. (1) A person who is in charge of an institution shall-
- (a) formulate a policy in accordance with this Law against sexual harassment of inmates, wards or patients of that institution; and
  - (b) bring the contents of the policy to the attention of each person who is directed by him.
- (2) A person who is a member of staff of an institution shall not sexually harass a person who is an inmate, ward or patient at that institution or who is seeking admission to that institution.
- (3) An inmate, ward or patient of an institution shall not sexually harass a member of staff of that institution.
11. (1) A person who is in charge of an educational institution or the relevant educational authority shall-
- (a) formulate a policy in accordance with this Law against sexual harassment; and
  - (b) bring the contents of the policy to the attention of each person for whom he or it is responsible.
- (2) A person who is a member of staff of an educational institution shall not sexually harass-
- (a) a person who is a student at the educational institution; or
  - (b) a person who is seeking to become a student at the educational institution.

(3) A person who is a student at an educational institution shall not sexually harass-

- (a) another a student at that educational institution; or
- (b) a member of the staff of that educational institution.

Vocational training  
bodies

12. A person who or an employee of a relevant educational authority which provides facilities for vocational training in order to assist another person to become fit for employment, shall not subject that person to sexual harassment.

Qualifying bodies

13 (1) A member of a body which is empowered to confer, renew, extend, revoke or withdraw an authorisation or qualification that is needed for or facilitates the practice of a profession, the carrying on of a trade or the engaging in an occupation, shall not subject to sexual harassment a person who applies for such an authorisation or qualification.

(2) In this section “authorisation or qualification” includes recognition, registration, enrolment, approval and certification.

Associations

14. A member of an association shall not sexually harass another member of that association or a person seeking to become a member of that association.

Organisations

15. A member of an organisation of workers, an organisation of employers, or any other organisation whose members carry on a particular profession, trade or activity for the purposes of which the organisation exists shall not subject to sexual harassment any person who-

- (a) is a member of that organisation; or
- (b) has applied for membership of that organisation.

Employment agencies

16. A person who operates an employment agency or a member of staff of an employment agency shall not sexually harass another person in the course of providing or offering to provide any of the agency’s services to that other person.

Goods, services and  
facilities

17. A person who provides goods, services or facilities for the benefit of the public or a section of the public shall not subject the intended recipient of those goods, services or facilities to sexual harassment-

- (a) in the course of providing or offering to provide those goods, services or facilities; or
- (b) in circumstances where he is seeking to benefit from those goods, facilities or services.

Accommodation

18. (1) A landlord shall not subject his tenant to sexual harassment.

(2) A tenant shall not subject his landlord to sexual harassment.

19. A person shall not sexually harass another person in the course of transactions with that other person in relation to-
- (a) disposing of, or offering to dispose of, real or personal property to that other person;
  - (b) acquiring, or offering to acquire, real or personal property from that other person; or
  - (c) giving a licence or consent for the disposal of an interest in real or personal property.
20. A person who considers that he is, or has been, subjected to sexual harassment conduct in a manner described under this Law may make a complaint to the Sexual Harassment Tribunal in accordance with section 34.
21. (1) A person shall not subject or threaten to subject another person to any detriment-
- (a) on the ground that the second-mentioned person-
    - (i) has made, or proposes to make, a complaint under this Law;
    - (ii) has furnished or proposes to furnish, any information, or has produced, or proposes to produce, any document to a person exercising or performing any power or function under this Law;
    - (iii) proposes to provide evidence or testimony as a witness in proceedings under this Law; or
    - (iv) has made in good faith an allegation that a person has engaged in conduct prohibited under this Law; or
  - (b) on the ground that the first-mentioned person believes that the second-mentioned person has done, or proposes to do, an act or thing referred to in paragraph (a)(i) to (iv).
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of one year or both.
22. A person who, in the opinion of the Tribunal makes a false, vexatious or frivolous complaint against another person for an alleged contravention of any provision of this Law commits an offence and is liable on summary conviction to a fine of five thousand dollars or imprisonment for a term of one year or both.
23. (1) A person shall not induce or attempt to induce another person to engage in sexual harassment conduct by-
- (a) providing or offering to provide that other person with any benefit; or

- (b) subjecting or threatening to subject that other person to any detriment.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of five thousand dollars or imprisonment for term of one year or to both.

### **PART 3 – SEXUAL HARASSMENT TRIBUNAL**

Establishment of Tribunal 24. There is established the Sexual Harassment Tribunal for the purpose of hearing complaints under this Law.

Functions of Tribunal 25. The Tribunal shall-

- (a) hear and determine sexual harassment complaints submitted to it for determination; and
- (b) promote an understanding and acceptance of and compliance with this Law.

Independence of Tribunal 26. In the exercise of its functions under section 25, the Tribunal shall not be subject to the direction or control of any other person.

Composition of Tribunal 27. (1) Subject to subsections (2) and (3) and to section 28, the Tribunal shall comprise five members, who shall be appointed by the Governor in Cabinet on such terms and conditions as the Governor in Cabinet may specify in the members' instruments of appointment.

(2) The members of the Tribunal shall be-

- (a) an attorney-at-law who shall be the chairperson; and
- (b) four other persons each of whom has experience and qualifications in any of the following or related fields-
  - (i) gender relations;
  - (ii) social development;
  - (iii) human rights; or
  - (iv) employment.

(3) A person shall be disqualified from being a member and is not eligible to be appointed as a member, or having been appointed, is not eligible to continue as a member if that person-

- (a) has filed for bankruptcy in a court or is declared by a court to be an undischarged bankrupt;
- (b) is declared by the relevant authority to be physically or mentally incapacitated by reason of unsoundness of mind;

- (c) has been convicted of a criminal offence except where the offence is a minor traffic offence; or
- (d) is a member of the Legislative Assembly.

(4) A decision of the Tribunal shall be by simple majority of the members present at a properly constituted hearing or meeting of the Tribunal.

(5) Where a vacancy exists in the membership of the Tribunal, the Governor in Cabinet shall, in accordance with this section, appoint a person to fill the vacancy.

(6) The Governor in Cabinet shall by notice published in the Gazette give notice of the names of the members of the Tribunal as first constituted and thereafter of every change in the constitution of the Tribunal.

(7) A person appointed as a member shall act in the public interest to carry out the purposes of this Law and shall not make any decision based on his personal or business interest.

(8) For the purposes of subsection (4), a hearing or meeting of the Tribunal shall be properly constituted if at least three members of the Tribunal are present and participating in the meeting or hearing.

28. The appointment of a member shall be at the pleasure of the Governor in Cabinet. Tenure of members

29. (1) A member who is in any way, either directly or indirectly, interested in a matter before the Tribunal shall declare the nature of his interest to the Tribunal at the first instance where it is practicable to do so. Declaration of interest

(2) Where a member declares an interest under subsection (1), the Tribunal shall determine whether or not the member's interest in the matter is material and where the Tribunal determines the member's interest is material, the member shall not sit to hear that particular matter.

30. (1) A member, other than the Chairperson, may resign his office at any time by giving thirty days' notice in writing addressed to the Governor in Cabinet through the Chairperson. Resignation

(2) The Chairperson may, at any time by giving thirty days' notice in writing addressed to the Governor in Cabinet, resign from his office.

31. The Governor in Cabinet shall at any time, in writing, revoke the appointment of a member if, upon evidence, the Governor in Cabinet is satisfied- Revocation

- (a) that the member is disqualified from being a member under section 27(3);
- (b) that the member is unable to perform the functions of his office;
- (c) that the member is guilty of misconduct in the exercise of his functions;
- (d) that the member has been disqualified or suspended on grounds of misconduct, by a competent authority, from practising a profession;
- (e) that the member is disqualified on grounds of national security; or
- (f) that there is any other sufficient cause.

Vacancy

32. (1) The office of a member is vacated-
- (a) upon the death of the member;
  - (b) if the member becomes disqualified under section 27(3);
  - (c) if the member resigns under section 30;
  - (d) if the Governor in Cabinet revokes the appointment of that member under section 31; or
  - (e) if the member's appointment is not renewed by the Governor in Cabinet, as of the date of expiry of the member's term of appointment.

(2) A vacancy in membership shall not invalidate a decision of the Tribunal taken at a hearing.

Remuneration and expenses

33. (1) A member shall be paid such remuneration and allowances as may be determined by the Governor in Cabinet.

(2) The expenses of the Tribunal shall be paid out of the general revenue of the Islands.

Complaint to Tribunal

34. (1) A person who believes that he is being, or has been, subjected to sexual harassment may, in the form approved by the Tribunal, file a complaint with the Tribunal indicating that he has been sexually harassed within the meaning of section 3 of this Law.

(2) A person who has reasonable grounds for believing that another person is engaging or has engaged in sexual harassment conduct contrary to this Law may, in the form approved by the Tribunal, file a complaint with the Tribunal.

(3) On receiving a complaint under subsection (1) or (2), the Tribunal shall-

- (a) record the complaint and provide the complainant and the respondent with a copy of that record signed by the person receiving the complaint;
- (b) carry out investigations in relation to the alleged conduct;
- (c) request information from any person and make such inquiries as it thinks fit;
- (d) rely on any means it considers reasonable to resolve a complaint;
- (e) furnish to the complainant and the respondent a prescribed statement setting out the procedures that will be followed in relation to the complaint and the rights of the complainant; and
- (f) adjourn an inquiry at any stage to enable the complainant and respondent to arrive at an amicable resolution.

(4) A complaint shall be made within six months from the date on which the alleged sexual harassment was conducted.

(5) The Tribunal may accept a complaint made after expiration of the six months period if it considers the reasons for the delay to be reasonable.

(6) The Tribunal may, adopt such procedures and systems as it considers appropriate in the circumstances to determine a particular complaint.

35. (1) Where a complaint has been made under section 34, no member of the Tribunal or any other person having any official duty or being employed to administer this Law shall, unless the Tribunal permits, divulge or communicate to any other person, any particulars of that complaint.

Complaint particulars  
not to be communicated

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of five thousand dollars or imprisonment for a term of one year or both.

36. (1) The Tribunal may decide against pursuing an investigation or discontinue an investigation where-

- (a) it reasonably believes that the complainant does not wish that the inquiry be made or continued; or
- (b) it is of the opinion that the complaint is frivolous, vexatious, misconceived or lacking in substance.

Discontinuation of  
investigation

(2) Where the Tribunal decides against pursuing or decides to discontinue an investigation in relation to a complaint, it shall, within fourteen days of that decision, provide the complainant with notice in writing and the reasons for the decision.

Hearing of complaint

37. (1) Where the Tribunal decides to hear and determine a complaint, the Tribunal shall give a written notice of the complaint and the date, time and place of the hearing to the parties to the complaint.

(2) Where a complaint is made by a person other than the individual who is alleged to be the victim of the sexual harassment, the Tribunal shall refuse to deal with the complaint unless it is satisfied that the alleged victim consented to the intervention of the other person.

(3) Where the Tribunal decides not to hear and determine a complaint, the Tribunal shall provide the complainant with written notice setting out the reason for its decision.

(4) For the purpose of discharging the functions of the Tribunal under this Law, the Tribunal shall, as is reasonably required, have the power to-

- (a) compel the production of documents or any other information or thing from any person who the Tribunal has reasonable grounds to believe can assist in determining whether sexual harassment conduct has been committed;
- (b) issue summonses to compel the attendance of witnesses at the hearing; and
- (c) examine witnesses on oath, affirmation or otherwise at the hearing.

(5) The Tribunal on receiving a document pursuant to subsection (4)(a)-

- (a) may take possession and make copies of, or take extracts from, the document;
- (b) may retain possession of the document for such period as is necessary for the purposes of the inquiry to which the documents relate; and
- (c) during the period under paragraph (b), shall permit a person who would be entitled to inspect any one or more of the documents if they were not in the possession of the Tribunal, to inspect at all reasonable times such documents as that person would be entitled to inspect.

(6) A summons issued by the Tribunal under this section shall be under the hand of the chairperson.

(7) A person who-

- (a) fails without reasonable excuse to comply with a requirement or a summons under subsection (4);

- (b) destroys or alters, or causes to be destroyed or altered, any document, or other matter or thing required to be produced under subsection (4); or
- (c) hinders, obstructs, prevents or interferes with the Tribunal in the exercise of a power under this section;
- (d) directs insulting language towards the Tribunal when the Tribunal is exercising any powers or performing any functions under this Law; or
- (e) furnishes to the Tribunal any information or makes a statement at an inquiry knowing that the information or statement is false or misleading,

commits an offence and is liable on summary conviction to a fine of five thousand dollars.

(8) A party to a matter before the Tribunal under this section shall be entitled to appear at the hearing and may be represented by an attorney-at-law or any other person who in the opinion of the Tribunal is competent to assist the person in the presentation of the matter.

(9) The Tribunal shall give the complainant and the respondent a reasonable opportunity to call witnesses, present evidence, examine and cross-examine witnesses and make submissions to the Tribunal.

(10) The Tribunal may order a party to pay the legal fees and any other costs of the other party where it believes that it is just and fair to do so.

38. (1) Where after a hearing under section 37, the Tribunal finds that-

Findings of Tribunal

- (a) the complainant's allegations are substantiated, the Tribunal shall notify the complainant and the respondent in writing of its findings and make an appropriate order; or
- (b) the complaint is frivolous or vexatious the Tribunal shall, in writing, notify the complainant and the respondent and order the complainant to pay the costs incurred by the Tribunal and those of the respondent.

(2) The Tribunal pursuant to subsection (1)(a) may make any one or more of the following orders-

- (a) that the respondent not repeat or continue the sexual harassment conduct;
- (b) that the respondent shall perform any reasonable act or course of conduct to redress any loss or damage suffered by the complainant;

- (c) that the respondent shall pay damages to the complainant by way of compensation not exceeding twenty thousand dollars for any loss or damage suffered by reason of the conduct of the respondent;
- (d) that where the complaint relates to sexual harassment by a fellow employee, that the employer shall take appropriate action to ensure that the sexual harassment ceases;
- (e) that it would be inappropriate for any further action to be taken in the matter; or
- (f) any other order or declaration as may be appropriate having regard to all circumstances surrounding the complaint.

(3) Where the Tribunal makes an order for the payment of compensation to a complainant the sum payable may be recovered by the complainant in court as a civil debt.

(4) A person who fails to comply with an order of the Tribunal given pursuant to subsection (1) commits an offence and is liable on summary conviction to a fine of five thousand dollars.

Agreement

39. If at any stage after the filing of a sexual harassment complaint and before the commencement of a hearing by the Tribunal, an agreement is made between the complainant and respondent, they shall notify the Tribunal, in writing, of the terms of the agreement.

Confidentiality

40. (1) Subject to subsection (4), a person who is, or has at any time been a member shall not, either directly or indirectly-

- (a) divulge or communicate to any person, any information relating to the affairs of another person acquired by the member as a result of his office for the purposes of this Law;
- (b) make use of any such information as is mentioned in paragraph (a); or
- (c) produce to any person a document relating to the affairs of another person given for the purposes of this Law.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of five thousand dollars.

(3) A person who is, or has at any time been a member, shall not be required except where it is necessary to do so for the purposes of this Law-

- (a) to divulge or communicate to a court any information relating to the affairs of another person acquired by the member as a result of his office; or

(b) to produce in a court a document relating to the affairs of another person of which the member has custody, or to which he has access, as a result of his office.

(4) This section shall not prohibit a person from-

(a) making a record of information for the purposes of exercising a function under this Law or any other law in force in the Islands; or

(b) divulging or communicating information, or producing a document that is required or permitted by a Law to be divulged, communicated or produced as the case may be, if the information is divulged or communicated, or the document is produced, for the purposes of or under that Law.

(5) Subsection (3) shall not prevent a person from being required, for the purposes of or under a Law, to divulge or communicate information, or to produce a document, that is required or permitted by that Law to be divulged, communicated or produced.

(6) In this section-

“court” includes any tribunal, authority or person having power to require the production of documents or the answering of questions; and

“produce” includes permit access to.

41. (1) No person shall publish a report of any proceedings of the Tribunal unless he is first granted leave of the Tribunal.

Publication of Tribunal proceedings

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of two thousand dollars or to imprisonment for a term of six months or both.

42. (1) A member shall not be liable in damages for anything done or omitted in the discharge or purported discharge of his functions, responsibilities, powers and duties under this Law unless it is shown that the act or omission was in bad faith.

Protection from liability

(2) The Government shall indemnify a member against all claims, damages, costs charges or expenses incurred by that member in the discharge or purported discharge of his functions, responsibilities, powers and duties under this Law, except claims, damages, costs, charges or expenses caused by the bad faith of that member.

Appeal 43. A person aggrieved by a decision of the Tribunal may, within twenty-eight days of the decision, appeal to the Grand Court against that decision.

**PART 4 - MISCELLANEOUS**

Standard of proof 44. A question of fact arising in any proceedings under this Law, other than criminal proceedings, shall be decided on a balance of probabilities.

Regulations 45. The Governor in Cabinet may make such Regulations and rules as are required for the effective implementation of this Law and generally for carrying this Law into effect.

Law binding on Crown 46. This Law binds the Crown.

Repeal 47. Section 7 of the Gender Equality Law, 2011 is repealed.

Savings and transitional provisions 48. (1) Any regulations made pursuant to section 41 of the Gender Equality Law, 2011 in relation to sexual harassment and in force immediately before the coming into force of this Law, so far as they are not inconsistent with the provisions of this Law, continue in force as if made under this Law.

(2) Every complaint, matter and proceeding filed or commenced pursuant to section 7 of the Gender Equality Law, 2011 Law and partly dealt with immediately before this Law came into force, may be continued, completed, enforced and dealt with in all respects as if this Law had not come into force.

(3) Every complaint, matter and proceeding filed or commenced pursuant to section 7 of the Gender Equality Law, 2011 and not dealt with immediately before this Law came into force, shall be taken to be a complaint, matter or proceeding commenced under this Law, and the provisions of this Law are to apply accordingly.

(4) In the case of an appeal made under section 40 of the Gender Equality Law, 2011 in relation to proceedings based on section 7 of the Gender Equality Law, 2011 that has been commenced but not finally determined before this Law comes into force, the Tribunal shall continue to deal with the appeal as if this Law had not come into force.

Passed by the Legislative Assembly the      day of                      , 2012.

Speaker.

Clerk of the Legislative Assembly.

CONSULTATION DRAFT