

- the termination was made in accordance with a fair procedure or this Act.

Section 64-Remedies for Unfair Termination

- A worker who claims that the employment of the worker has been unfairly terminated by the worker's employer may present a complaint to the Commission.
- If upon investigation of the complaint the Commission finds that the termination of the employment is unfair, it may
 - order the employer to re-instate the worker from the date of the termination of employment;
 - order the employer to re-employ the worker, either in the work for which the worker was employed before the termination or in other reasonably suitable work on the same terms and conditions enjoyed by the worker before the termination or
 - order the employer to pay compensation to the worker.

LABOUR ACT 2003 (ACT 651)



**FRIEDRICH
EBERT
STIFTUNG**

UNFAIR
TERMINATION
OF
EMPLOYMENT
AND
REMEDIES

Section 63-

Unfair Termination of Employment

- The employment of a worker shall not be unfairly terminated by the worker's employer.
- A worker's employment is terminated unfairly if the only reason for the termination is
 - that the worker has joined, intends to join or has ceased to be a member of a trade union or intends to take part in the activities of a trade union;
 - that the worker seeks office as, or is acting or has acted in the capacity of, a workers' representative;
 - that the worker has filed a complaint or participated in proceedings against the employer involving alleged violation of this Act or any other enactment;
 - the worker's gender, race, colour, ethnicity, origin, religion, creed, social, political or economic status;
 - in the case of a woman worker, due to the pregnancy of the worker or the absence of the worker from work during maternity leave;
 - in the case of a worker with a disability, due to the worker's disability;
 - that the worker is temporarily ill or injured and this is certified by a recognised medical practitioner;
- that the worker does not possess the current level of qualification required in relation to the work for which the worker was employed which is different from the level of qualification required at the commencement of his or her employment or
- that the worker refused or indicated an intention to refuse to do any work normally done by a worker who at the time was taking part in lawful strike unless the work is necessary to prevent actual danger to life, personal safety or health or the maintenance of plant and equipment.
- Without limiting the provisions of subsection (2), a worker's employment is deemed to be unfairly terminated if with or without notice to the employer, the worker terminates the contract of employment
 - because of ill-treatment of the worker by the employer, having regard to the circumstances of the case or
 - because the employer has failed to take action on repeated complaints of sexual harassment of the worker at the work place.
 - A termination may be unfair if the employer fails to prove that,
 - the reason for the termination is fair or