



BERMUDA

COMMISSION FOR UNITY AND RACIAL EQUALITY
(TRANSFER OF FUNCTIONS) ACT 2010

2010 : 33

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WHEREAS it is expedient to transfer the functions of the Commission for Unity and Racial Equality to the Human Rights Commission, and to make consequential provision;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

COMMISSION FOR UNITY AND RACIAL EQUALITY (TRANSFER OF FUNCTIONS) ACT 2010

Preliminary

Citation

1 This Act may be cited as the Commission for Unity and Racial Equality (Transfer of Functions) Act 2010.

Transfer of functions

Transfer of functions

2 The functions of the Commission for Unity and Racial Equality under the Commission for Unity and Racial Equality Act 1994 are transferred to the Human Rights Commission, which was established under section 13 of the Human Rights Act 1981.

Repeal of CURE Acts

3 (1) The following Acts are repealed—

Commission for Unity and Racial Equality Act 1994;

Commission for Unity and Racial Equality Amendment Act 1999; and

Commission for Unity and Racial Equality Amendment Act 2005.

(2) Accordingly, the Commission for Unity and Racial Equality is dissolved.

Consequential amendments

Consequential amendments to Human Rights Act 1981

4 In consequence of the transfer of functions effected by section 2, the Human Rights Act 1981 (“the 1981 Act”) is amended as provided in sections 5 to 8.

Repeals section 14A

5 Section 14A of the 1981 Act (disclosure of information to CURE) is repealed.

Inserts sections 14C to 14G

6 After section 14B of the 1981 Act insert—

“Additional functions relating to racial equality

14C (1) The Commission shall—

(a) promote equality of opportunity and good relations between persons of different racial groups;

(b) work towards the elimination of racial discrimination and institutional racial discrimination; and

(c) establish and maintain in such form as it considers appropriate, a register of employers from the information or data received from the Director of Statistics under subsection (2)(b).

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- (2) The Commission may—
- (a) issue codes of practice containing practical guidance for—
 - (i) the elimination of racial discrimination in the field of employment; and
 - (ii) the promotion of equality of opportunity in that field between persons of different racial groups; and
 - (b) request in writing from the Director of Statistics any information or data which the Commission requires to carry out its functions under this section.

(3) For the purposes of this section, “racial group” means a group of persons defined by reference to colour, race, place of origin, ethnic origins or ancestry; and references to a person’s racial group refer to any racial group into which the person falls.

(4) The fact that a racial group comprises two or more distinct racial groups does not prevent it from constituting a particular racial group for the purposes of this Act.

(5) A person practices institutional racial discrimination if he maintains policies, or engages in practices or procedures, which are intended to, or likely to result in, hardship or economic disadvantage to one racial group as against another.

(6) A comparison of the case of a person of a particular racial group with that of a person not of that group shall be such that the relevant circumstances in the one case are the same, or are not materially different, in the other.

Codes of practice

14D (1) When the Commission proposes to issue a code of practice under section 14C(2)(a), it shall prepare and publish a draft of that code, shall consider any representations made to it about the draft and may modify the draft accordingly.

(2) The Commission shall not, without the prior written approval of the Minister, publish a draft code of practice.

(3) In the course of preparing any draft code of practice for eventual publication under subsection (1), the Commission shall consult with such organisations or associations of organisations representative of employers or of workers as appear to the Commission to be appropriate.

(4) The Commission shall transmit the draft code of practice to the Minister who shall if he approves of it, lay it before both Houses of the Legislature.

(5) A draft code of practice may be approved by resolution of each House of the Legislature and such resolution may be with or without modification of the draft code of practice.

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(6) Where a draft code of practice has been approved by both Houses of the Legislature, the Commission shall issue the draft code of practice with such modifications, if any, as may have been approved and the code shall come into effect on such day as the Minister may by order appoint.

(7) The Commission may from time to time revise the whole or any part of a code of practice issued under this section and issue that revised code, and subsections (1) to (6) shall apply (with appropriate modifications) to such a revised code as they apply to the first issue of a code of practice.

(8) A failure on the part of any person to observe any provision of a code of practice shall not of itself render him liable to any proceedings; but in any proceedings before a board of inquiry or a court, any code of practice issued under this section shall be admissible in evidence and if any provision of such a code appears to the board of inquiry or the court to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

(9) Without prejudice to section 14C(2)(a), a code of practice issued under this section may, with the approval of the Minister, include such practical guidance as to what steps it is reasonably practicable for employers to take for the purpose of preventing at the workplace acts made unlawful by this Act.

Information from Director of Statistics

14E (1) The Director of Statistics shall comply with a request made under section 14C(2)(b) where he is satisfied that the information requested by the Commission—

(a) is information that the Commission reasonably requires to discharge its functions under section 14C; and

(b) is not contrary to any provision of the Statistics Act 2002.

(2) The information or data supplied by the Director of Statistics under subsection (1) shall, subject to the Statistics Act 2002, be in such form or classification as may be specified in the request made under subsection (1).

Information from employers

14F (1) The Commission may in addition to whatever information is supplied by the Director of Statistics, on giving reasonable notice, require employers to furnish such information about employees and applicants for employment as the Commission may reasonably require to discharge its functions under section 14C.

(2) Every employer required by the Commission to furnish it with information under subsection (1), shall furnish such information in such form and within such period as the Commission may specify.

(3) Notwithstanding section 6(4), an employee shall, when requested so to do, furnish to his employer such information as is reasonably required to enable the employer to comply with this section.

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(4) In this section, “information” includes information about pay, remuneration and emoluments.

Regulations

14G (1) The Minister may, after consultation with the Commission, make regulations—

- (a) prescribing the information that the Commission may reasonably require from employers under section 14F;
- (b) requiring that information to be given separately by reference to different descriptions or classes of employment; and
- (c) generally for giving effect to the provisions of sections 14C to 14F.

(2) The affirmative resolution procedure applies to regulations made by the Minister under subsection (1).”

Amends section 22

7 At the end of section 22 of the 1981 Act (offences and penalties) insert the following—

“(4) An employer who—

- (a) without reasonable excuse, fails to furnish information required under section 14F; or
- (b) knowingly provides false information,

commits an offence, and is liable on conviction by a court of summary jurisdiction to a fine not exceeding \$5,000.

(5) An employee who—

- (a) without reasonable excuse, fails to provide information in accordance with section 14F(3); or
- (b) knowingly provides false information,

commits an offence, and is liable on conviction by a court of summary jurisdiction to a fine not exceeding \$500.”

Amends section 30

8 In section 30(1) of the 1981 Act (confidentiality) the words “During an investigation” are repealed.

Confidentiality

9 For the avoidance of doubt, as a result of the transfer of functions effected by this Act, section 30 of the 1981 Act (as amended by section 8) has effect to continue the obligation of confidentiality imposed on former members, officers and servants of the

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Commission for Unity and Racial Equality by section 8 of the Commission for Unity and
Racial Equality Act 1994.

[Assent Date: 05 July 2010]

[Operative Date: 05 July 2010]