

**BERMUDA
1995 : 1**

HUMAN RIGHTS AMENDMENT ACT 1995

[Date of Assent 14 February 1995]

[Operative Date 14 February 1995]

WHEREAS it is expedient to amend the Human Rights Act 1981:
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:

Citation

1 This Act which amends The Human Rights Act 1981 (hereinafter referred to as "the principal Act") may be cited as The Human Rights Amendment Act 1995.

Inserts new sections 6A and 6B in principal Act

2 (1) The principal Act is amended by inserting next after section 6 the following new sections—

"Special programmes

6A (1) Notwithstanding the provisions of this Part, the Commission may, upon conditions or limitations and subject to revocation or suspension, approve in writing any special plan or programme, by the Government or by any agency thereof or by any person, where such plan or programme—

(a) is designed to relieve hardship or economic disadvantage or to assist disadvantaged persons or groups to achieve or attempt to achieve equal opportunity; or

(b) is designed to increase the employment of members of a group or class of persons because of the race, colour, nationality or place of origin of the members of the group or class.

(2) For the purposes of subsection (1), an application for the approval of the Commission must be in writing and must be supported by such information, if any, as the Commission may require.

Employers, etc., not to harass employee

6B No person who is an employee shall be harassed in the work place by the employer or agent of the employer or by another employee, whether such harassment is based on race, colour, ancestry or place of origin."

Amends section 15 of principal Act

3 Section 15 of the principal Act is amended—

(a) by deleting subsection (1) and substituting the following—

"(1) Subject to the following provisions of this Part where—

(a) any person complains to the Commission upon grounds which appear to be genuine that he has suffered unlawful discrimination by reason of any alleged contravention of this Act; or

(b) the Commission has reasonable grounds for believing that any person has contravened any provision of this Act,

the Commission shall have power to investigate, and it shall be the duty of the Commission as soon as is reasonably possible to investigate and—

(c) endeavour to settle the causes of the complaint; or

(d) endeavor to cause the contravention to cease,

as the case may be.";

(b) by deleting subsection (3) and substituting the following—

"(3) The Commission shall give notice in writing of the complaint or belief, as the case may be, to the person or organization against whom the complaint was made or in relation to whom the belief arose, and the notice shall state that the Commission intends to investigate the complaint or the belief.

(3A) Where pursuant to subsection (3) the Commission gives notice to any person or organization that it believes that that person or organization has contravened any provision of the Act, the notice shall specify the grounds for that belief.";

(c) by deleting subsection (4) and substituting the following—

"(4) The Commission shall determine the terms of reference for any investigation carried out pursuant to this section."; and

(d) in subsection (9), by deleting the word "shall" and substituting the word "may";

Amends section 18 of principal Act

Section 18 of the principal Act is amended by deleting subsection (1) and substituting the following—

"(1) Where—

(a) it appears to the Commission that—

(i) it is unlikely in the circumstances to be able to settle the causes of a complaint; or

(ii) the Commission has been trying for a period of nine months to settle the causes of a complaint but has been unsuccessful,

and the complaint is not of such a kind or of such gravity as to warrant a prosecution, the Commission shall refer the complaint to the Minister who may, in his discretion, refer it to a board of inquiry appointed under subsection (2).

(1A) Where—

(a) the Commission refers a complaint to the Minister under subsection (1);

(b) the Minister appoints a board of inquiry; and

(c) the complainant applies to the Commission for assistance under this section,

the Commission shall consider the application and may grant it if it considers it fit to do so.

(1B) Assistance granted under subsection (1A) shall be on the ground that it would be unreasonable, having regard to the complexity of the case or the complainant's position in relation to the person against whom the complaint is made or another person involved or any other matter, to expect the complainant to deal with the case unaided.

(1C) Assistance by the Commission under this section may include—

(a) giving advice;

- (b) arranging for the giving of advice or assistance by an attorney;
- (c) arranging for representation by any person; and
- (d) any other form of assistance which the Commission may consider appropriate."

Amends section 20 of principal Act

5 Section 20 of the principal Act is amended by inserting next after subsection (3) the following—

"(4) For the avoidance of doubt it is hereby declared that restitution in relation to a contravention of any provision of this Act includes financial restitution for injury to feelings.". Inserts new section 20A in principal Act

6 The principal Act is amended by inserting next after section 20 the following new section—

"Claims under Part II

20A (1) A claim by any person ("the claimant") that another person ("the respondent") has committed an act of discrimination against the claimant which is made unlawful by virtue of Part II may be made the subject of civil proceedings in like manner as any other claim in tort.

(2) For the avoidance of doubt it is hereby declared that damages in respect of an unlawful act of discrimination may include compensation for injury to feelings whether or not they include compensation under any other head."

Amends section 22 of the principal Act

7 Section 22 of the principal Act is amended—

- (a) in subsection (2)(i), by deleting the figure "\$1,000" and substituting the figure "\$5,000";
- (b) in subsection (2)(ii), by deleting the words "three months" and substituting the words "three years" and by deleting the figure "\$3,000" and substituting the figure "\$15,000";
- (c) in subsection (3)(i), by deleting the figure "\$1,000" and substituting the figure "\$5,000"; and
- (d) in subsection (3)(ii), by deleting the figure "\$5,000" and substituting the figure "\$25,000".