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Race Relations Act, 1962

Act 6 of 1962

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Race Relations Act, 1962

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eSwatini

Race Relations Act, 1962

Act 6 of 1962

Commenced on 2 March 1962

[This is the version of this document at 1 December 1998.]

An Act to prevent discrimination by any person against any other person or group of persons based solely on race or colour.

1. Short title

This Act may be cited as the Race Relations Act, 1962.

2. Interpretation

In this Act unless the context otherwise requires—

"**business**" means any trade, business or enterprise carried on with the general public or any section thereof in any scheduled premises;

"**complainant**" means a person making a complaint or further complaint;

"**complaint**" means a complaint made to a Regional Administrator under [section 4](#);

"**complaint certificate**" means a certificate referred to in [section 4\(4\)](#);

"**court**" means the magistrates court established under the Magistrates Courts Act for the district in which the premises are situated, presided over by a magistrate who has been granted increased jurisdiction generally in terms thereof;

"**further complaint**" means a complaint made to a court under [section 5](#);

"**legal practitioner**" has the meaning assigned to it in the Legal Practitioners Act, [No. 15 of 1964](#);

"**Magistrates Courts Act**" means the Subordinate Courts Proclamation (Cap. 20);

"**party**" in relation to a complaint or further complaint means the complainant and the respondent therein;

"**proprietor**" means in relation to any business carried on in terms of a licence, the holder of such licence and in respect of any business that does not require to be licensed the person conducting such business;

"**racial discrimination**" means discrimination either of an adverse or of a preferential nature practised by any person or group of persons against or in favour of any other person or group of persons for reasons only of race or colour;

"**respondent**" means a person against whom a complaint or a further complaint is made;

"**scheduled premises**" means any premises of a type specified in the Schedule;

"**tribunal**" means a Regional Administrator hearing a complaint or a court hearing a further complaint.

3. Racial discrimination on scheduled premises prohibited

During the hours that any scheduled premises are open in respect of any business carried on therein the proprietor of such business shall not practise any racial discrimination or cause or permit it to be practised by any of his servants or agents on such premises;

Provided that compliance by a proprietor or his servants or agents with the mandatory provisions of any law shall not be deemed to be racial discrimination for the purposes of this section.

4. Complaints

- (1) Any person against whom racial discrimination is alleged to have been practised in contravention of [section 3](#) or who is personally aggrieved by any preferential discrimination alleged to have been practised in favour of any other person or class of persons, may make a complaint in respect of such discrimination to the Regional Administrator of the district in which the premises concerned are situate.
- (2) A complaint shall be made in writing in duplicate within seven days after the date of the act or omission in respect of which such complaint is made and shall be accompanied by an address at which notices may be given to or documents served upon the complainant.
- (3) If a complaint is made, the Regional Administrator concerned shall as soon as possible serve upon the respondent one copy of such complaint and shall give notice to the parties thereto of the date, not being less than three or more than seven days after the date of such service, upon which the complaint will be considered by the Regional Administrator, and upon such consideration the Regional Administrator shall endeavour to promote reconciliation between the parties.
- (4) If a Regional Administrator has considered a complaint and is unable to promote reconciliation between the parties thereto, he shall, give the complainant a complaint certificate stating the details of the complaint and that he has been unable to promote reconciliation between the parties.

5. Further complaints

- (1) A complainant who has received a complaint certificate may within seven days of the date of such certificate make a further complaint in respect of the complaint detailed in the certificate to a court.
- (2) A further complaint shall be in writing and shall be accompanied by the complaint certificate concerned and an address at which notice may be given to or documents served upon the complainant and the complainant shall within a period of seven days mentioned in subsection (1) serve a copy of such further complaint upon the respondent and upon the Regional Administrator who issued the complaint certificate.
- (3) The Regional Administrator shall within seven days after the receipt by him of a further complaint transmit to the court a full record of the proceedings out of which the further complaint arose.

6. Procedure on further complaint and powers of court

- (1) The court shall, on the receipt of a further complaint referred to in [section 5](#), consider the record of the proceedings from which such further complaint arose, and after hearing such additional evidence as it or the parties may deem necessary and decide whether and to what extent the complaint is well founded.
- (2) If the court decides that the respondent has contravened the provisions of [section 3](#) it may—
 - (a) in the case of a first contravention order that the respondent be cautioned;
 - (b) in the case of a second contravention order that—
 - (i) the respondent be cautioned; or
 - (ii) the respondent pay a fine not exceeding one hundred emalangeni;
 - (c) in the case of a third or subsequent contravention order that—
 - (i) the respondent be cautioned; or
 - (ii) the respondent pay a fine not exceeding two hundred emalangeni; or

- (iii) any licence held by the respondent in respect of the scheduled premises concerned shall not be renewed or replaced upon its expiry and that the licensing authority shall not issue or grant another such licence to the respondent during such period not exceeding three years as the court shall specify.
- (3) No order shall be made under subsection (2) in any case where the racial discrimination concerned was practised by an employee of the respondent and the respondent proves to the satisfaction of the court that he did not instigate or abet the discrimination and that he had taken all reasonable steps to prevent the discrimination.

7. Procedure after decision by the court

- (1) This section and [section 6](#) shall have effect notwithstanding anything contained in any other law and nothing so contained shall be construed as to nullify, modify or abridge the exercise of any power or the performance of any duty conferred or imposed by any such provisions.
- (2) Whenever a court orders that a respondent be cautioned or pay a penalty it shall—
 - (a) endorse any licence held by the respondent in respect of the premises concerned accordingly; and
 - (b) forthwith notify the licensing authority concerned in writing of the fact and date of such endorsement.
- (3) Every subsequent licence of the same or similar type issued either by way of renewal or replacement of an endorsed licence by the licensing authority to the respondent during a period of three years from the date of such endorsement shall bear a copy of such endorsement placed thereon by the licensing authority.
- (4) If a court orders that a respondent pays a fine and the respondent fails to pay such fine within fourteen days after the date of such order or such longer time as the court shall allow, such order shall have all the effects of and may be enforced as if it were a civil judgment given in such court in favour of the Government.
- (5) If a court orders that a licence shall not be renewed the clerk of the court shall notify in the *Gazette* and in writing to the licensing authority concerned—
 - (a) the name of the respondent;
 - (b) the name and situation of the business concerned; and
 - (c) the period of disqualification imposed.
- (6) If a licensing authority receives a notification given under subsection (5)—
 - (a) it shall not renew the licence concerned upon expiry thereof; and
 - (b) it shall not issue or grant a licence of the same or similar type to the proprietor concerned during the period of disqualification mentioned in such order.
- (7) If an appeal is lodged with the High Court under [section 9](#) and notice thereof is given to the court and the licensing authority concerned subsections (4) and (6) shall not apply pending determination of the appeal, but after such determination the said subsections shall apply, *mutatis mutandis*, to any order of the High Court as they apply to an order by the court.

8. Supplementary provisions as to proceedings before tribunal

- (1) All proceedings before a Regional Administrator under the provisions of this Act shall be held *in camera* and all proceedings before a court or the High Court may be held *in camera* if all the parties thereto agree, or if the presiding officer deems it necessary or expedient in circumstances where publicity would prejudice the interests of justice, or in the interests of public morality, or the welfare of persons under the age of eighteen years, or the protection of the private lives of persons

concerned in the proceedings, or in the interests of defence, public safety or public order, to hear the further complaint or appeal as the case may be, *in camera*, and so orders.

- (2) Any party may appear before a tribunal either in person or by a legal practitioner admitted to practise in Swaziland.
- (3) At any proceedings before a tribunal a proprietor who is a respondent therein shall produce to the tribunal all licences held by him in respect of the scheduled premises concerned.
- (4) A tribunal may—
 - (a) by notice in writing require any person, subject to the payment or tender of reasonable expenses of his attendance, to attend as a witness and give evidence in any investigation by the tribunal, and if any person without reasonable excuse fails to comply with any of the requirements of such notice he shall be guilty of an offence;
 - (b) take evidence on oath and make such other investigation as it may deem fit in assisting it to come to a decision regarding any matter before it;
 - (c) award to any party to a further complaint such costs as the tribunal considers reasonable, and may direct how such costs are to be paid, and the costs awarded may be recovered from the party ordered to pay them by the party to whom they were awarded by civil action.
- (5) Any person guilty of an offence under this section shall be liable on conviction to a fine not exceeding one hundred emalangeni.

9. Appeals to High Court

- (1) A proprietor who is dissatisfied with any order of the court hearing a further complaint may appeal therefrom to the High Court and notice of any such appeal shall be given to the High Court within thirty days of the date of the order:

Provided that the High Court may extend the time within which an appeal may be lodged in any case in which it may consider it just and equitable so to do.
- (2) An appeal under this section shall be set down for hearing by the High Court within thirty days after the date upon which the appeal was lodged with the High Court.
- (3) Subject to this section, the practice and procedure observed in civil appeals from a magistrates court to the High Court shall be observed in appeals under this section.
- (4) On the hearing of any appeal under this section, the High Court may dismiss the appeal or may allow it and quash the order of the court or may substitute for such order any other order whether more or less severe which could have been made by the court.
- (5) If, upon the hearing of an appeal, the order of the court is varied or quashed, the High Court shall forthwith notify the court accordingly, and thereupon the court shall in the case of an order of the High Court—
 - (a) by notice in writing require any person, subject to the payment or tender of reasonable expenses of his attendance, to attend as a witness and give evidence in any investigation by the tribunal, and if any person without reasonable excuse fails to comply with any of the requirements of such notice he shall be guilty of an offence;
 - (b) take evidence on oath and make such other investigation as it may deem fit in assisting it to come to a decision regarding any matter before it;
 - (c) award to any party to a further complaint such costs as the tribunal considers reasonable, and may direct how such costs are to be paid, and the costs awarded may be recovered from the party ordered to pay them by the party to whom they were awarded by civil action.

- (6) The decision of the High Court on any appeal under this section shall be final.

[Amended P.28/1962]

10. Service of documents

If any document is required to be served, or any notice is required to be given by this Act it shall be deemed to have been validly served or given if—

- (a) in the case of a complainant, it is addressed to him and left at or sent by prepaid registered post to the address given by him under this Act; or
- (b) in the case of a respondent, it is addressed to him and left at or sent by prepaid registered post to the scheduled premises concerned.

11. Offences in relation to complaints, etc.

Any person shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred emalangeni or to imprisonment not exceeding six months if he—

- (a) knowingly makes, causes, permits or procures to be made, any false statement in any complaint, further complaint or investigation by a tribunal; or
- (b) applies for or obtains any licence which he is at the time when such licence is applied for or obtained, disqualified under this Act from holding; or
- (c) otherwise than in accordance with this Act or in the course of his duty as a public officer, publishes or makes known in any manner any evidence given in or at proceedings of a tribunal held *in camera*.

12. Offences in relation to scheduled premises

Any person shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred emalangeni or imprisonment for a term not exceeding one year, or both, if he—

- (a) acts in any scheduled premises in an insulting, provocative or offensive manner towards any person of a different race or colour; or
- (b) incites or endeavours to incite any other person to act in such a manner as aforesaid.

[Amended P.28/1962]

13. Regulations

The Prime Minister may make such Regulations and give such directions as he thinks fit for giving effect to and carrying out the purposes of this Act.

Schedule (under Section 2 of the Act)**Scheduled premises**

| | |
|---------------|-------------|
| | |
| Banks | Hotels |
| Bars | Restaurants |
| Cinemas | Shops |
| Eating houses | Tearooms |
| | Theatres. |