



BERMUDA

STATISTICS ACT 2002

2002 : 4

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FIRST SCHEDULE

SECOND SCHEDULE

SECTION 8

WHEREAS it is expedient to make provision for the collection, compilation, analysis and publication of statistical information and for related purposes:

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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 may be cited as the Statistics Act 2002.

Interpretation

2 (1) In this Act, unless the context otherwise requires—

“Department” means the Department of Statistics referred to in section 3;

“Director” means the person holding or acting in the public office of Director of Statistics;

“electronic record” means a record or document created, stored, generated, received or communicated by electronic means;

“Minister” means the Premier or other Minister for the time being responsible for statistics;

“statistics” means information in connection with or incidental to any general purpose of all or any of the matters specified in the First Schedule and “statistical” shall be construed accordingly.

“undertaking” means any undertaking by way of trade, business or profession, whether or not the trade, business or profession is carried on for profit; and the exercise and performance by a public authority of the powers and duties of that authority shall be treated as a trade or business of that authority.

[Section 2 amended by deleting “Chief Statistician” and inserting “Director” by 2009:47 s.2 effective 6 December 2009]

Department of Statistics

3 On the coming into operation of this Act the Department shall continue to function, subject to the provisions of this Act and the directions of the Minister, under the general control and supervision of the Director.

[Section 3 amended by 2009:47 s.2 effective 6 December 2009]

Duties of Director

4 (1) It shall be the duty of the Director—

(a) in accordance with the provisions of this Act, to collect, compile, collate, analyse, abstract and publish statistical information relating to the commercial, industrial, social, financial, economic, and general activities and conditions of the people of Bermuda;

(b) to take any census of population and housing in Bermuda;

- (c) to collaborate with Ministries, other Government Departments and public authorities in the collection, compilation, collation and publication of statistical information, including statistics derived from the activities of those Ministries, departments or public authorities;
- (d) to promote the avoidance of duplication in the information collected by Ministries, other Government Departments and public authorities; and
- (e) generally to promote, organise and develop an integrated scheme of economic and social statistics relating to Bermuda.

(2) The Director may, for the purpose of the performance of any of his functions under this Act, employ such persons in addition to the staff of the Department as the Director may consider necessary for the particular purpose.

[Section 4 amended by 2009:47 s.2 effective 6 December 2009]

Taking census

5 (1) A census of the population of Bermuda shall be taken in the year 2010 and every fifth year thereafter.

(2) The census shall be taken in such a manner as to ensure that counts of the population are provided for each electoral constituency, as constituted at the time of the census.

(3) The Minister may by order direct that a census shall be taken of the whole or any part of Bermuda, or any class of inhabitants and the order shall specify—

- (a) the date on which, or the dates of the period between which, the census is to be taken;
- (b) the persons by whom and with respect to whom the returns for the purpose of such census are to be made; and
- (c) the matters in respect of which information is to be obtained in the census.

(4) Where an order has been made under subsection (3), the Minister may by notice—

- (a) change the date specified in the order as the date on which the census is to be taken; provided that he issues the notice not less than 7 days before the date on which the census is due to be taken;
- (b) extend, for no more than three months, the period during which a census is being taken; provided that he issues the notice not less than 14 days before the date on which the initial period of census taking is due to end; or
- (c) provide for one further three-month period of census taking after the initial period or any extension has come to an end; provided that he issues the notice not more than three months after the date upon which the initial period or any extension came to an end.

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- (5) A notice issued by the Minister—
- (a) under subsection (4)(a) or (b) shall not be subject to section 6 of the Statutory Instruments Act 1977; or
 - (b) under subsection (4)(c) shall be subject to the negative resolution procedure.

[Section 5 amended by 2010 : 55 s. 2 effective 12 December 2010]

Collection and publication of statistics

6 (1) Subject to the provisions of this Act, the Director shall, in accordance with a direction given by the Minister, from time to time, whether in conjunction with a census or not, collect statistics either in Bermuda generally, or in any part of Bermuda.

(2) The Director shall cause the statistics and other particulars, if any, collected pursuant to this Act to be compiled, tabulated and analysed and, subject to the provisions of this Act, shall cause such statistics or abstracts thereof, or extracts therefrom to be published, with or without comments thereon, in such manner as the Minister may either generally or specially direct.

[Section 6 amended by 2009:47 s.2 effective 6 December 2009]

Prohibition against examining returns, disclosing information, etc.

7 (1) Subject to the provisions of this Act, no person other than a person who is employed under this Act and who has sworn or affirmed the oath set out in the Second Schedule thereto shall—

- (a) be permitted to examine any identifiable individual return made for the purposes of this Act; or
 - (b) disclose or cause to be disclosed by any means, any information obtained under this Act in such a manner that it is possible from the disclosure to relate the particulars obtained from any individual return to any identifiable individual person, business or organisation.
- (2) Any person who—
- (a) being a person employed for any of the purposes of this Act, without lawful authority publishes or in any manner communicates to any other person, otherwise than in the ordinary course of such employment, any information acquired by him in the course of such employment; or
 - (b) having possession of any information which to his knowledge has been disclosed in contravention of this Act, makes use of or publishes or in any manner communicates that information to any other person,

is guilty of an offence and is liable on conviction by a court of summary jurisdiction to a fine not exceeding \$5000 or to a term of imprisonment not exceeding one year.

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Oath of secrecy

8 Any person employed in the exercise of any power or the performance of any duty under this Act, including any additional staff employed by the Director pursuant to section 4(2), shall, before entering upon his duties, take the oath or make the affirmation set out in the Second Schedule.

[Section 8 amended by 2009:47 s.2 effective 6 December 2009]

Power of Director to authorise disclosure of certain information

9 (1) The Director may authorise the disclosure of the following information—

- (a) information collected by persons, organisations, Ministries, other Government Departments or public authorities for their own purposes and communicated to the Department prior to the coming into operation of this Act but that information shall be subject to the same requirements for secrecy, if any, to which it was subject when collected and may only be disclosed in the manner, and to the extent, agreed on by the collector thereof and the Director;
- (b) information relating to a person or organisation in respect of which disclosure is consented to in writing by the person or organisation concerned;
- (c) information relating to a business, other than a business providing services as a carrier or a public utility, in respect of which disclosure is consented to in writing by the owner for the time being of the business;
- (d) information available to the public under any statutory provision;
- (e) information relating to any hospital, mental institution, library, educational institution, welfare institution, or similar non-commercial institution, so, however, that in the case of a hospital, mental institution or other residential institution, the information shall be arranged in such a manner that it is not possible to relate the particulars to any individual patient, inmate, or other person in the care of such institution;
- (f) information relating to any carrier or public utility; or
- (g) information in the form of an index or list, of individual establishments, firms or businesses showing such matters in relation to them as may be prescribed by regulations.

(2) In this section—

“carrier” means any person or association of persons that owns, operates or manages an undertaking that carries, or moves, persons or commodities by any form of land, sea, or air transport; and

“public utility” means any person or association of persons that owns, operates, or manages an undertaking—

- (a) for the supply of petroleum or petroleum products by pipeline;

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- (b) for the supply, transmission or distribution of electricity, gas or water;
- (c) for the collection and disposal of garbage or sewage, or for the control of pollution;
- (d) for the transmission, emission, reception or conveyance of information by any telecommunication system; or
- (e) for the provision of postal services.

[Section 9 amended by 2009:47 s.2 effective 6 December 2009]

Protection of information

10 (1) A person shall not be required to supply any information under this Act which involves the disclosure of any technical process, or trade secret, in or relating to the undertaking of which he is the owner, or in the conduct or supervision of which he is engaged.

(2) Subject to the provisions of this section, except in the case of information collected in an employment survey—

- (a) no individual return or part thereof, made for the purposes of this Act;
- (b) no answer given to any question put for the purposes of this Act; and
- (c) no report, abstract, or other document containing particulars comprised in any such return or answer so arranged as to identify such particulars with any person or undertaking,

shall be published, admitted in evidence, or shown to any person not employed in the exercise of a power, or the performance of a duty under this Act, unless the consent in writing thereto has been obtained from the person making the return or giving the answer or, in the case of an undertaking, from the owner or the person for the time being carrying on the undertaking.

(3) Except for the purposes of a prosecution under this Act—

- (a) a return made to the Department pursuant to this Act and a copy of such return in the possession of the respondent shall not be used as evidence in any proceedings whatsoever; and
- (b) no person who is employed under this Act and who has sworn or affirmed the oath set out in the Second Schedule thereto shall by an order of any court, tribunal, or other body be required to give oral testimony, or to produce any return, document, or record with respect to any information obtained for the purposes of this Act.

(4) This section applies in respect of any information that the Department is prohibited by this Act from disclosing, or that may only be disclosed in accordance with section 9.

(5) Nothing in this section shall prevent or restrict the publication of any such report, abstract or other document by reason only of the fact that the particulars in the

report, abstract or document in question relate to an undertaking, other than an undertaking which does not provide essential services, which is the only undertaking within its particular sphere of activities, if the report, abstract or document is so arranged as to disclose, in respect of such undertaking only the following information, that is to say—

- (a) the quantity and the value of any description of goods manufactured, produced or exported or sold;
- (b) the number of and the economic and social characteristics of employees employed;
- (c) the amount and extent of any investment; and
- (d) any other information which has been furnished or supplied under this Act, to the publication of which no objection has been made in writing by the person furnishing or supplying the information prior to the publication of the report, abstract or document.

(6) In this section “essential services” means the services specified in the First Schedule to the Labour Relations Act 1975.

Power to obtain periodic or other information

11 (1) It shall be lawful for the Director, in respect of any one or more of the matters specified in the First Schedule, to require any person—

- (a) by notice in writing addressed to that person, or by notice published in the Official Gazette, to furnish in the form and manner and within the time specified, such periodical or other information, estimates or returns, as may be so specified; and
- (b) to supply the Director with particulars—
 - (i) at a personal interview with, or with a person authorised by, the Director;
 - (ii) by leaving at, or by posting to, the last known address of such person, a form having thereon a notice requiring the form to be completed and returned in the manner and within the time specified in the notice; or
 - (iii) by telephoning or making an electronic transmission to such a person.

(2) A notice referred to in subsection (1) shall state—

- (a) that it is in exercise of the powers conferred upon the Director by that subsection; and
- (b) generally the purpose for which the information, estimates, returns or particulars are required.

(3) Notwithstanding any provision of law to the contrary, any person having the custody or charge of any public records or documents or any records or documents, including electronic records, that are maintained in any Ministry, Government Department, public authority, corporation, business, organisation or other location—

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- (a) from which information sought in furtherance of the purposes of this Act may, in the opinion of the Director, be obtained; or
- (b) which, in the opinion of the Director, will aid in the completion or correction of information already obtained,

shall grant to the Director access to such records or documents for the purpose of obtaining therefrom the required information and shall furnish the Director with copies of any such records or documents if so required.

(4) Where any particulars, in whatever form, are, by any notice purporting to be issued by the Director, required to be supplied by any person, it shall be presumed until the contrary is proved—

- (a) that the particulars may lawfully be required from that person in accordance with the provisions of this Act; and
- (b) that the notice has been issued by the Director.

(5) In this section “electronic transmission” means transmission by means of electrical, digital, wireless, optical, electromagnetic or similar capability.

[Section 11 amended by 2009:47 s.2 effective 6 December 2009]

Notices

12 (1) Except as otherwise provided, a notice required or authorized by or under this Act to be served on any person may be served either—

- (a) by delivering it to that person; or
- (b) by leaving it at his proper address; or
- (c) by sending it by post to his proper address; or
- (d) by publishing it in the Official Gazette.

(2) Any such notice required or authorized to be served upon an incorporated company or body shall be duly served if it is served on the secretary or clerk of the company or body.

(3) For the purposes of this section, the proper address of any person on whom a notice is to be served shall, in the case of the secretary or clerk of an incorporated company or body, be that of the registered or principal office of the company or body, and in any other case shall be the last known address of the person to be served.

(4) Where the name of a person carrying on an undertaking at any premises is not known, then if any such notice is sent by post in a letter so addressed as to show the name in which and the premises at which the undertaking is carried on, the letter shall be deemed to be properly addressed.

Publication of notice requiring returns by undertakings

13 (1) The Director may, by notice published in the Official Gazette and once a week for two weeks in a newspaper printed and circulating in Bermuda, specify a list of any class

or description of undertaking in relation to which returns will be required for any of the purposes of this Act.

(2) Where pursuant to subsection (1) the Director publishes a list, then, any person who is carrying on an undertaking of the class or description specified in the notice shall, within the time specified in the notice, inform the Director that he is carrying on such an undertaking and shall give to the Director such information or particulars of the undertaking as may be specified in that notice.

(3) Subject to subsection (4), a person who fails to give any information or particulars as required by subsection (2) is guilty of an offence and is liable on conviction by a court of summary jurisdiction to a fine not exceeding \$5,000.

(4) It shall be a defence for a person charged with an offence under this section to prove that he did not know and had reasonable cause for not knowing that he was required to give that information or those particulars.

(5) Any person who knowingly or recklessly makes any statement in any information or particulars given under subsection (2) which is false in a material particular is guilty of an offence and is liable on conviction by a court of summary jurisdiction to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding six months.

(6) Where an undertaking is wholly or partly carried on by means of branches situated at several premises, the Minister may agree with the persons carrying on the undertaking that for the purposes of all or any of the provisions of this Act a separate undertaking shall be deemed to be carried on at all or any of those branches by the branch manager or such other person as may be specified in the agreement.

[Section 13 amended by 2009:47 s.2 effective 6 December 2009]

Penalty for Destruction, etc. of Documents

14 A person who without lawful authority destroys, defaces or mutilates any form, any schedule or other document, including an electronic record, containing particulars obtained in pursuance of the provisions of this Act, is guilty of an offence and liable on conviction by a court of summary jurisdiction to a fine not exceeding \$5,000.

Failure to furnish information, etc.

15 (1) Any person required to furnish information, estimates or returns or to supply particulars under this Act who refuses or neglects to do so is guilty of an offence and is liable on conviction by a court of summary jurisdiction to a fine not exceeding \$1,000.

(2) If the failure in respect of which a person is convicted under subsection (1) is continued after the conviction, the failure shall constitute a further offence and the person shall be liable in respect of each day during which the offence continues to a fine of \$1,000.

(3) Any person required to furnish information, estimates or returns or to supply particulars under this Act, who knowingly or recklessly makes any statement relating to the information, estimates, returns or particulars which is false or misleading in any material particular, or who practises any other deception thereunder, is guilty of an offence

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and is liable on conviction by a court of summary jurisdiction to a fine not exceeding \$1,000 for every false or misleading statement, or for other deception, as the case may be.

(4) A person who hinders or obstructs any person engaged in the execution of any duty under this Act is guilty of an offence and is liable on conviction by a court of summary jurisdiction to a fine not exceeding \$1,000.

(5) Where an offence under any of the foregoing provisions of this Act committed by a company is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, any director, senior executive, secretary or other similar officer of the company or any person who was purporting to act in any such capacity, he as well as the company, shall be guilty of that offence and be liable to be proceeded against and punished accordingly unless such person shows that he took all reasonable steps to avoid the commission of an offence.

Power to amend First Schedule

16 The Minister may from time to time by order subject to negative resolution procedure add to, delete or vary any of the matters specified in the First Schedule.

Repeals Act No. 47 of 1978 and Act No. 19 of 1950

17 The Statistics of Employment Act 1978 and the Census Act 1950 are repealed.

Regulations

18 The Minister may make regulations prescribing—

- (a) the particulars and information to be furnished concerning any matter in respect of which statistics may be collected under the provisions of this Act;
- (b) the manner and form in which, the times and places at which, and the persons by whom such particulars and information shall be furnished; and
- (c) the information to be provided by establishments for the purposes of section 9(1)(g).

FIRST SCHEDULE

(sections 2, 11, 16)

1. Population
2. Housing
3. Health and welfare of the community
4. Labour and employment
5. Internal migration, immigration and emigration
- 5A. Religion
- 5B. Race and ethnicity
6. Prices and the cost of living
7. Finance, insurance and international business
8. Real estate, rents and vacancies
9. Education, public and private
10. Law enforcement and the administration of justice and corrections
11. Agriculture
12. Fishing activity and the fishing industry
13. Births, deaths, marriages and divorces
14. Salaries, wages, fees and other payment for services rendered
15. Construction activity
16. Wholesale and Retail activity
17. Imports and exports
18. Traffic and transportation
19. Visitors by air and sea and length of stay
20. Land tenure and the occupation and use of land
21. Communication

[Schedule 1 amended by BR 77/2009 effective 4 December 2009]

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SECOND SCHEDULE

SECTION 8

I, _____ solemnly swear* (solemnly sincerely and truthfully affirm) that I will faithfully and honestly fulfill my functions as _____ in conformity with the requirements of the Statistics Act 2001, and that I will not, without due authority in that behalf disclose or make known any matter or thing which comes to my knowledge by reasons of my employment as such.

Signed

Date

*Delete as appropriate

[Assent Date: 18 March 2002]

[Operative Date: 18 March 2002]

[Amended by:

2009 : 47

BR 77 / 2009

2010 : 55]