

HUMAN RIGHTS ACT**CHAPTER 22***Assented to May 16, 1984.***Contents**

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Interpretation**1. In this Act**

"age" means an age of 45 years or more and less than 65 years;

"council" means the British Columbia Council of Human Rights;

"employers' organization" means an organization of employers formed for purposes that include the regulation of relations between employers and employees;

"employment" includes the relationship of master and servant, master and apprentice and principal and agent, if a substantial part of the agent's services relate to the affairs of one principal, and "employ" has a corresponding meaning;

"employment agency" includes a person who undertakes, with or without compensation, to procure employees for employers or to procure employment for persons;

“occupational association” means an organization, other than a trade union or employers’ organization, in which membership is a prerequisite to carrying on a trade, occupation or profession;

“person” includes an employer, an employment agency, an employers’ organization, an occupational association and a trade union;

“trade union” means an organization of employees formed for purposes that include the regulation of relations between employees and employers.

PART 1

DISCRIMINATORY PRACTICES PROHIBITED

Discriminatory publication

2. (1) No person shall publish or display before the public, or cause to be published or displayed before the public, a notice, sign, symbol, emblem or other representation indicating discrimination or an intention to discriminate against a person or class of persons in any manner prohibited by this Act.

(2) Notwithstanding subsection (1) but subject to the *Civil Rights Protection Act*, a person may, by speech or in writing, freely express his opinions on a subject.

Discrimination in public facilities

3. No person shall

(a) deny to a person or class of persons any accommodation, service or facility customarily available to the public, or

(b) discriminate against a person or class of persons with respect to any accommodation, service or facility customarily available to the public,

because of the race, colour, ancestry, place of origin, religion, marital status, physical or mental disability or sex of that person or class of persons unless the discrimination relates, in the case of sex, to the maintenance of public decency or, in the case of sex or physical or mental disability, to the determination of premiums or benefits under contracts of life or health insurance.

Discrimination in purchase of property

4. No person shall

(a) deny to a person or class of persons the opportunity to purchase a commercial unit or dwelling unit that is in any way represented as being available for sale,

(b) deny to a person or class of persons the opportunity to acquire land or an interest in land, or

(c) discriminate against a person or class of persons with respect to a term or condition of the purchase or other acquisition of a commercial unit, dwelling unit, land or interest in land,

because of the race, colour, ancestry, place of origin, religion, marital status, physical or mental disability or sex of that person or class of persons.

Discrimination in tenancy premises**5. (1) No person shall**

- (a) deny to a person or class of persons the right to occupy, as a tenant, space that is in any way represented as being available for occupancy by a tenant, or
- (b) discriminate against a person or class of persons with respect to a term or condition of the tenancy of the space,

because of the race, colour, ancestry, place of origin, religion, marital status, physical or mental disability or sex of that person or class of persons, or of any other person or class of persons.

(2) Subsection (1) does not apply where a person in any way represents that space is available for occupancy by another person who is to share with him the use of any sleeping, bathroom or cooking facilities in the space.

Discrimination in employment advertisements

6. No person shall publish or cause to be published an advertisement in connection with employment or prospective employment that expresses a limitation, specification or preference as to race, colour, ancestry, place of origin, political belief, religion, marital status, physical or mental disability, sex or age unless the limitation, specification or preference is based on a bona fide occupational requirement.

Discrimination in wages

7. (1) No employer shall discriminate between his male or female employees by employing an employee of one sex for work at a rate of pay that is less than the rate of pay at which an employee of the other sex is employed by that employer for similar or substantially similar work.

(2) For the purposes of subsection (1), the concept of skill, effort and responsibility shall, subject to such factors in respect of pay rates as seniority systems, merit systems and systems that measure earnings by quantity or quality of production, be used to determine what is similar or substantially similar work.

(3) A difference in the rate of pay between employees of different sexes based on a factor other than sex does not constitute a failure to comply with this section where the factor on which the difference is based would reasonably justify the difference.

(4) No employer shall reduce the rate of pay of an employee in order to comply with this section.

(5) Where an employee is paid less than the rate of pay to which he is entitled under this section, he is entitled to recover from his employer, by action, the difference between the amount paid and the amount to which he is entitled, together with the costs, but

- (a) no action shall be commenced later than 12 months from the termination of his services, and
- (b) the action applies only to wages of an employee during the 12 month period immediately preceding the date of the termination of his services, or the date of the commencement of his action, whichever date occurs first.

Discrimination in employment**8. (1) No person or anyone acting on his behalf shall**

- (a) refuse to employ or refuse to continue to employ a person, or

(b) discriminate against a person with respect to employment or any term or condition of employment, because of the race, colour, ancestry, place of origin, political belief, religion, marital status, physical or mental disability, sex or age of that person or because of his conviction for a criminal or summary conviction charge that is unrelated to the employment or to the intended employment of that person.

(2) No employment agency shall refuse to refer a person for employment for any reason mentioned in subsection (1).

(3) Subsection (1) does not apply

(a) as it relates to age, to any bona fide scheme based on seniority, or

(b) as it relates to marital status, physical or mental disability, sex or age, to the operation of any bona fide retirement, superannuation or pension plan or to a bona fide group or employee insurance plan.

(4) Subsections (1) and (2) do not apply with respect to a refusal, limitation, specification or preference based on a bona fide occupational requirement.

Discrimination by unions and associations

9. No trade union, employers' organization or occupational association shall

(a) exclude any person from membership,

(b) expel or suspend any member, or

(c) discriminate against any person or member

because of the race, colour, ancestry, place of origin, political belief, religion, marital status, physical or mental disability, sex or age of that person or member, or because of his conviction for a criminal or summary conviction charge that is unrelated to the employment or to the intended employment of that person.

PART 2

COUNCIL OF HUMAN RIGHTS

Council established

10. (1) There shall be established a council known as the British Columbia Council of Human Rights consisting of not more than 5 members appointed by the Lieutenant Governor in Council to hold office during pleasure.

(2) The Lieutenant Governor in Council shall designate a member of the council as chairman.

(3) Each member of the council shall be paid the actual and reasonable expenses incurred by him in discharging his duties as a member of the council, and a member who is not an employee under the *Public Service Act* shall be paid remuneration for his services as a member of the council as the Lieutenant Governor in Council orders.

Complaints

11. (1) A person who alleges that he has been discriminated against contrary to this Act may file a complaint with particulars with the council.

(2) Where the council is satisfied that a person alleged to have been discriminated against contrary to this Act consents to the filing of a complaint and, in the opinion of the

council, it is in the interests of that person that the complaint be filed, the council may accept a complaint filed on his behalf by another person.

(3) Where a complaint is filed under subsection (2), the person on whose behalf the complaint is filed shall, for the purposes of sections 12 to 16, be considered to be the complainant.

(4) Subject to section 13, the council shall investigate a complaint.

Inspection of records

12. For the purposes of conducting an investigation, the council may make an examination and inquiry that it considers necessary to ascertain whether this Act has been complied with and may

- (a) require a complainant or a person who is alleged to have contravened this Act to disclose, orally or in writing, information the council requires respecting the subject matter of the complaint, and
- (b) require the production of records relating to the subject matter of the complaint.

Decision not to proceed with investigation

13. (1) The council may decide not to proceed with the investigation of a complaint where it appears to the council that the complaint

- (a) is not within the jurisdiction of the council,
- (b) could be more appropriately dealt with under another Act,
- (c) is trivial, frivolous, vexatious or made in bad faith, or
- (d) is based on facts that occurred more than 6 months before the complaint was filed, unless the delay was incurred in good faith and no substantial prejudice will result to any person affected by the delay.

(2) The council shall not decline to proceed with an investigation by reason only that there was no intent by the person against whom the complaint was made to contravene this Act.

(3) Where the council decides not to proceed with an investigation, it shall so inform the complainant in writing.

Procedure after investigation

14. (1) On completion of an investigation, the council shall

- (a) order that the proceedings be discontinued,
- (b) recommend a settlement of the complaint and, where the recommendation is not accepted by the complainant or the person alleged to have contravened this Act, submit a report to the minister,
- (c) submit a report to the minister, or
- (d) designate one member of the council to receive, as specified by him, written or oral submissions from the complainant and the person alleged to have contravened this Act, and the member of council
 - (i) where he considers the complaint is not justified, shall dismiss the complaint, or
 - (ii) where he considers the complaint is justified, shall make an order described in section 17 (2) (a) and may make an order described in section 17 (2) (b).

(2) Section 16 (4) and (5) applies where oral submissions are made under subsection (1) (d) of this section.

- (3) On receipt of a report under subsection (1) (b) or (c), the minister shall
- (a) refer the complaint to a board of inquiry, or
 - (b) order that the proceedings be discontinued.

Decision to be communicated in writing

15. An order under section 14 (1) (a) or (d) (ii) or section 14 (3) or the dismissal of a complaint under section 14 (1) (d) (i) shall be communicated in writing to the complainant and the person who is alleged to have contravened this Act, and, where the proceedings are discontinued or the complaint is dismissed, no further proceedings under this Act shall be taken in relation to the subject matter of the discontinued proceedings or the dismissed complaint.

PART 3

BOARD OF INQUIRY

Board of inquiry

16. (1) A board of inquiry shall consist of one person appointed by the minister.

(2) A board of inquiry has, for the purposes of a reference under section 14 (3), the power, privileges and protection of sections 12, 15 and 16 of the *Inquiry Act* given to a commissioner appointed under Part 2 of that Act.

(3) The persons who are entitled to be parties to proceedings before a board of inquiry are

- (a) the complainant,
- (b) where the complaint was filed under section 11 (2), the person who filed the complaint on behalf of the complainant,
- (c) the person who is alleged to have contravened this Act, and
- (d) any other person whom the board of inquiry considers would be directly affected by an order made by it.

(4) A board of inquiry shall give the parties the opportunity to be represented by counsel, to present relevant evidence, to cross examine witnesses and to make submissions.

(5) A board of inquiry may receive and accept on oath, affidavit or otherwise, evidence or information that it, in its discretion, considers necessary and appropriate, whether or not the evidence or information would be admissible in a court of law.

(6) Where a party to a matter before a board of inquiry complains to the minister that the board has failed to proceed expeditiously, the minister may, after consulting the parties and the board, issue an order he considers necessary to ensure the matter will be disposed of without further undue delay.

Disposition of complaints

17. (1) Where a board of inquiry considers that a complaint is not justified, it shall dismiss the complaint.

- (2) Where a board of inquiry considers that a complaint is justified, it
- (a) shall order the person who contravened this Act to cease the contravention and to refrain from committing the same or a similar contravention, and

- (b) may order the person who contravened this Act to
- (i) make available to the person discriminated against the right, opportunity or privilege that, in the opinion of the board, he was denied contrary to this Act, and
 - (ii) compensate the person discriminated against for all, or a part the board determines, of any wages or salary lost, or expenses incurred, by the contravention,
- and, in addition to or instead of any other order under this paragraph, may order the person who contravened this Act to pay to the person discriminated against an amount not exceeding \$2 000.

(3) A board of inquiry may make an order as to costs it considers appropriate.

(4) Where an order is made under subsection (2) or (3) or section 14 (1) (d) (ii), the council or the person who was discriminated against and in whose favour the order is made may file a certified copy of the order with the Supreme Court or with a County Court, and on being filed the order has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of that court.

PART 4

GENERAL

Disclosure

18. (1) A member of the council or any person employed in the administration of this Act shall not be required in any proceedings or otherwise, except before a board of inquiry or in a judicial review respecting a complaint under this Act,

- (a) to give evidence, or
- (b) to produce records

relating to information obtained or a communication received in the investigation of a complaint under this Act.

(2) The minister shall not be compelled to give evidence in any proceedings or otherwise respecting any matter, communication or information connected with the administration or operation of this Act, or otherwise coming to his knowledge under or by reason of this Act.

Exemptions

19. (1) Where a charitable, philanthropic, educational, fraternal, religious or social organization or corporation that is not operated for profit has as a primary purpose the promotion of the interests and welfare of an identifiable group or class of persons characterized by a physical or mental disability or by a common race, religion, age, sex, marital status, political belief, colour, ancestry or place of origin, that organization or group shall not be considered as contravening this Act because it is granting a preference to members of the identifiable group or class of persons.

(2) The council may approve any program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups, and any approved program or activity shall be deemed not to be in contravention of this Act.

Protection

20. No person shall evict, discharge, suspend, expel, intimidate, coerce, impose any pecuniary or other penalty on or otherwise discriminate against a person because that person complains, gives evidence or otherwise assists in respect of the initiation or prosecution of a complaint or other proceeding under this Act.

Style of cause for proceedings

21. (1) A proceeding under this Act in respect of a trade union, employers' organization or occupational association may be taken in its name.

(2) An act or thing done or omitted by an employee, officer, director, official or agent of any person within the scope of his authority shall be deemed to be an act or thing done or omitted by that person.

Technical and other matters

22. (1) No proceeding under this Act is invalid by reason of any defect in form or any technical irregularity.

(2) Where there is a conflict between a provision of this Act and a provision of another enactment, this Act prevails.

Offence Act

23. Section 5 of the *Offence Act* does not apply in respect of this Act or the regulations.

Regulations

24. The Lieutenant Governor in Council may make regulations.

Appropriation

25. In addition to money appropriated under any other Act, money may be paid out of the consolidated revenue fund on or before March 31, 1985 for expenditures that may be required as a result of the enactment of this Act.

Repeal

26. The *Human Rights Code*, R.S.B.C. 1979, c. 186, is repealed.

Transitional

27. (1) Where, before this Act came into force, an allegation was referred by the minister to a board of inquiry under section 16 of the *Human Rights Code*, R.S.B.C. 1979, c. 186, and the board of inquiry has not, on the day this Act came into force, disposed of the allegation, the board of inquiry shall continue to have the same power to inquire into, to make orders in respect of and to dispose of the allegation as it had before this Act came into force, and in relation to that allegation or an allegation referred to in subsection (2) of this section, sections 13, 17, 18, 21 and 24 of the *Human Rights Code*, R.S.B.C. 1979, c. 186, shall, notwithstanding the repeal of that Act, remain in force.

(2) Where before this Act came into force an allegation was made orally or in writing to the director and there is no evidence that the allegation was received by the director under section 15 of the *Human Rights Code*, R.S.B.C. 1979, c. 186, within 6 months after the date of the alleged contravention, the board of inquiry to which the

allegation was referred by the minister has, notwithstanding section 23 of that Act or any decision of a court to the contrary, the same power to inquire into, to make orders in respect of and to dispose of the allegation as it would have had before this Act came into force had the allegation been received within 6 months after the date of the alleged contravention.

(3) Nothing in this Act affects an order made before this section came into force by a board of inquiry under section 17 of the *Human Rights Code*, R.S.B.C. 1979, c. 186, and notwithstanding the repeal of that Act, section 24 of the *Human Rights Code*, R.S.B.C. 1979, c. 186, shall remain in force in relation to that order.

Commencement

28. This Act comes into force by regulation of the Lieutenant Governor in Council.