

CHAPTER 10

An Act for the Promotion and Protection of the Fundamental Rights of the People of British Columbia

[Assented to 2nd April, 1969.]

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

Title.

1. This Act may be cited as the *Human Rights Act*.

Interpretation.

2. In this Act, unless the context otherwise requires,

- (a) “commercial unit” means a building or other structure or part thereof used or occupied, or intended, arranged, or designed to be used or occupied, for the manufacture, sale, resale, processing, reprocessing, displaying, storing, handling, garaging, or distribution of personal property, or any space that is used or occupied, or is intended, arranged, or designed to be used or occupied, as a separate business or professional unit or office in any building or other structure or in a part thereof;
- (b) “commission” means the Human Rights Commission established under this Act;
- (c) “director” means the officer of the Department of Labour designated by the minister as the director for the purposes of this Act;
- (d) “employer” includes every person, firm, corporation, agent, manager, representative, contractor, or sub-contractor having control or direction of, or responsible, directly or indirectly, for, the employment of any employee;
- (e) “employers’ organization” means an organization of employers formed for purposes that include the regulation of relations between employers and employees;
- (f) “employment agency” includes a person who undertakes, with or without compensation, to procure employees for employers and a person who undertakes, with or without compensation, to procure employment for persons;
- (g) “establishment” means a place of business or the place where an undertaking or a part thereof is carried on;
- (h) “minister” means the Minister of Labour;
- (i) “pay” means remuneration in any form;
- (j) “person” includes an employment agency, a trade union, and an employers’ organization;

- (k) "trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers.

Exception. 3. This Act does not apply to the employment or prospective employment of a domestic servant in a private home.

Pay discrimination prohibited. 4. (1) No employer and no person acting on his behalf shall discriminate between his male and female employees by paying a female employee at a rate of pay less than the rate of pay paid to a male employee employed by him for the same work or substantially the same work done in the same establishment.

(2) A difference in the rate of pay between a female and a male employee based on any factor other than sex does not constitute a failure to comply with this section.

Employment discrimination prohibited. 5. No employer shall refuse to employ, or refuse to continue to employ, any person, or discriminate against any person in regard to employment or any term or condition of employment,

- (a) because of his race, religion, sex, colour, nationality, ancestry, or place of origin; or
- (b) because of his age, if the person has attained the age of forty-five years and has not attained the age of sixty-five years; or
- (c) because the employee has made a complaint under this Act or has testified, or is believed to be about to testify, in any proceedings relative to the enforcement of this Act;

but discrimination because of sex, where based on a bona fide occupational qualification, does not constitute a failure to comply with this section.

Discrimination by trade union prohibited. 6. No trade union shall exclude from membership or expel or suspend any person or member, or discriminate against any person or member,

- (a) because of his race, religion, sex, colour, nationality, ancestry, or place of origin; or
- (b) because of his age, if the person or member has attained the age of forty-five years and has not attained the age of sixty-five years; or
- (c) because the person or member has made a complaint under this Act or has testified, or is believed to be about to testify, in any proceedings relative to the enforcement of this Act.

Publications and inquiries. 7. (1) No person shall use or circulate any form of application for employment or publish or display, or cause or permit to be published or displayed, any advertisement in connection with employment or make any written or oral inquiry in connection with employment which expresses, either directly or indirectly,

- (a) any limitation, specification, or preference as to race, religion, colour, nationality, ancestry, or place of origin of any person; or
- (b) any intent to
 - (i) dismiss from employment; or
 - (ii) refuse to employ or rehire; or
 - (iii) discriminate against

any person because of age, if the person has attained the age of forty-five years and has not attained the age of sixty-five years.

(2) Subsection (1) does not apply to the expression of a limitation, specification, or preference based on a bona fide occupational qualification.

Discrimination prohibited in public places.

8. No person, directly or indirectly, alone or with another, by himself or by the interposition of another, shall

- (a) deny to any person or class of persons the accommodation, services, or facilities available to the public in any place to which the public is customarily admitted; or
- (b) discriminate against any person or class of persons with respect to the accommodation, services, or facilities available to the public in any place to which the public is customarily admitted

because of the race, religion, colour, nationality, ancestry, or place of origin of such person or class of persons, or of any other person or class of persons.

Discrimination prohibited in commercial units and self-contained dwelling units.

9. No person, directly or indirectly, alone or with another, by himself or by the interposition of another, shall

- (a) deny to any person or class of persons the right to occupy as a tenant, owner, or purchaser any commercial unit or self-contained dwelling unit that is advertised or otherwise in any way represented as being available for occupancy by a tenant, owner, or purchaser; or
- (b) discriminate against any person or class of persons with respect to any term or condition of the tenancy or purchase of any commercial unit or any self-contained dwelling unit

because of the race, religion, colour, nationality, ancestry, or place of origin of that person or class of persons.

Publishing or displaying discriminatory signs, etc., prohibited.

10. (1) No person shall

- (a) publish or display, or cause to be published or displayed; or
- (b) permit to be published or displayed on lands or premises or in a newspaper, through a television or radio-broadcasting station, or by means of any other medium which he owns or controls

any notice, sign, symbol, emblem, or other representation indicating discrimination, or an intention to discriminate, against any person or any class of persons for any purpose because of the race, religion, colour, nationality, ancestry, or place of origin of that person or class of persons.

Free speech
not affected.

(2) Nothing in this section shall interfere with, restrict, or prohibit the free expression of opinions upon any subject by speech or in writing.

Application
exceptions.

11. (1) The provisions of sections 5, 6, and 7 relating to refusal, discrimination, exclusion, expulsion, or suspension because of age, or to expression of intent to dismiss, refuse to employ or rehire, or discriminate, because of age do not apply to the

- (a) termination of employment because of the terms or conditions of any bona fide retirement or pension plan;
- (b) operation of the terms or conditions of any bona fide retirement or pension plan which have the effect of a minimum service requirement;
- (c) operation of the terms or conditions of any bona fide group or employee insurance plan.

(2) The provisions of sections 5, 7, and 8 do not apply to any exclusively charitable, philanthropic, educational, fraternal, religious, or social organization or corporation that is not operated for profit, or to any organization that is operated primarily to foster the welfare of a religious or racial group and is not operated for profit, but institutions operating under the *Public Schools Act* are not exempted.

(3) Section 4 and the provisions of section 5 relating to discrimination because of sex do not apply to, supersede, or otherwise affect any statute, by-law, rule, order, or regulation having the force and effect of law which prohibits, restricts, or controls the employment of any person.

Human Rights
Commission.

12. (1) The Lieutenant-Governor in Council may establish a commission to be known as the "Human Rights Commission," which shall consist of a chairman and such number of other members, male and female, as the Lieutenant-Governor in Council may determine.

(2) The Lieutenant-Governor in Council shall appoint the chairman and other members of the commission.

(3) In addition to the chairman and other members of the commission, the Lieutenant-Governor in Council may appoint one or more vice-chairmen to act in the place of the chairman during his absence for any reason, and a person appointed vice-chairman is a member of the commission.

(4) A majority of the members of the commission, including the chairman or vice-chairman, is a quorum.

(5) A decision of the majority of the members of the commission present and constituting a quorum shall be the decision of the commission; and if the votes are equal, the chairman, or in his absence the vice-chairman, shall have a second or casting vote.

(6) The members of the commission shall be paid such remuneration as may be fixed by the Lieutenant-Governor in Council and such actual and reasonable expenses as may be incurred by them in the discharge of their duties.

Powers. **13.** (1) The commission and each member thereof has the powers of a commissioner under the *Public Inquiries Act*.

Submission of evidence. (2) The commission shall determine its own procedure, but shall on every reference give the complainant and any other person or persons whom the commission in its discretion decides is or are directly interested in and affected by the matter complained of opportunity to present evidence and make representation.

Delegation of powers. (3) The commission may delegate to one or more of its members any of the functions or duties of the commission.

(4) The commission may receive and accept whatever evidence and information on oath, affidavit, or otherwise it, in its discretion, deems fit and proper, whether admissible as evidence in a court of law or not.

No proceedings by way of mandamus, etc. (5) No order shall be made or process entered into or proceedings taken in any court, whether by way of injunction, declaratory judgment, certiorari, mandamus, prohibition, quo warranto, or otherwise, to question the appointment of the commission, or to review, prohibit, or restrain any of its proceedings.

Complaints. **14.** (1) Every complaint under subsection (2) shall be in writing on the form prescribed by the director, and shall be mailed or delivered to him at his office.

(2) Where a person complains that

(a) she has been discriminated against contrary to subsection (1) of section 4;

(b) he has been refused employment, discharged, or discriminated against contrary to section 5;

(c) he has been excluded, expelled, suspended, or discriminated against contrary to section 6;

(d) he has been denied accommodation, services, or facilities, or discriminated against, contrary to section 8;

(e) he has been denied occupancy or discriminated against contrary to section 9; or

(f) any other contravention of this Act has taken place, the director may inquire into the complaint or may appoint an officer of the Department of Labour to inquire into the complaint.

(3) The director or the officer appointed under subsection (2), as the case may be, shall inquire into the complaint and shall endeavour to effect a settlement of the matter complained of.

(4) If the matter complained of is not settled under subsection (3), the director may refer the matter to the commission.

(5) If, in the opinion of the commission, a complaint referred under subsection (4) is without merit, the commission may dismiss the complaint at any stage of proceedings.

(6) If, in the opinion of the commission, a person named in a complaint referred under subsection (4) has contravened any provision of this Act, the commission

- (a) shall make an order directing the person to cease the contravention;
- (b) may, in the same order or in a subsequent order, direct the person to rectify the contravention; and
- (c) may include in an order a direction
 - (i) that an employer employ or re-employ a person and pay the person the sum equal to wages lost by reason of the contravention; or
 - (ii) that a trade union include a person in membership or reinstate him as a member,

and the order is final.

(7) If, after service of the order and after the expiration of fourteen days from the date of the order or the date provided in the order for compliance, whichever is the later, a person requests the commission to file a copy of the order in a registry of the Supreme Court, the commission may file a copy of the order, and an order so filed is enforceable as a judgment or order of that court.

General powers of the commission.

15. The commission may, either by any member of the commission designated in writing by the chairman thereof or by any person authorized in writing by the chairman or director,

- (a) inspect and examine all books, payrolls, personnel records, registers, notices, documents, and other records of any person which in any way relate to
 - (i) the wages, hours of labour, or conditions of employment affecting any person;
 - (ii) membership of any person in or an application by any person for membership in a trade union, or both;
 - (iii) the accommodation, services, or facilities available in any place to which the public is customarily admitted; and
 - (iv) the occupancy of any commercial unit or self-contained dwelling unit;
- (b) take extracts from or make copies of any entry in those books, payrolls, personnel records, registers, notices, documents, and records;
- (c) require any person to make or furnish full and correct statements, either orally or in writing, in whatever form is required, respecting matters referred to in clause (a) and, in the discretion of the member of the commission or person so authorized, require the statements to be made by the person on oath or to be verified by a statutory declaration;
- (d) require any person to make full disclosure, production, or delivery to the commission, or to the person so authorized, of
 - (i) all records, documents, statements, writings, books, papers, extracts therefrom, or copies thereof that the person has in his possession or control; or

- (ii) other information, either verbal or in writing, and either verified on oath or otherwise as may be directed, that may in any way relate to matters referred to in clause (a);
- (e) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act are complied with;
- (f) exercise such other powers as may be necessary for carrying this Act and the regulations into effect;
- (g) administer all oaths and take all affidavits and statutory declarations required or authorized to be made under subsection (1), and to summon any person to give evidence in connection with any investigation, inquiry, or examination.

Staff. **16.** There may be employed, pursuant to the provisions of the *Civil Service Act*, such officers, clerks, and employees as are necessary for the administration of this Act.

Regulations. **17.** The Lieutenant-Governor in Council may make regulations as to any matter or thing which appears to him necessary or advisable to the effectual working of the provisions of this Act, and may therein or thereby

- (a) include a requirement that this Act or any provisions thereof or other notices be posted in any place specified in the regulations; and
- (b) require that contracts designated or classified in the regulations entered into and with
 - (i) Her Majesty in right of the Province or a member of the Executive Council of British Columbia acting for and on behalf of Her Majesty; and
 - (ii) a municipality in the Province; and
 - (iii) the board of school trustees of a school district in the Province; and
 - (iv) the board of management of a hospital as defined in the *Hospital Insurance Act*

shall contain such provisions in such form and terms as the Lieutenant-Governor in Council may provide, designed to secure the observance, so far as possible, of the non-discrimination provisions of this Act.

Director to promote principles of non-discrimination and submit annual report.

18. The director shall

- (a) promote the principle that every person is free and equal in dignity and rights without regard to race, religion, sex, colour, nationality, ancestry, or place of origin;
- (b) promote an understanding of, acceptance of, and compliance with this Act;
- (c) develop and conduct educational programmes designed to eliminate discriminatory practices relating to race, religion, sex, colour, nationality, ancestry, or place of origin; and

- (d) make a report to the minister for the year ended on the previous thirty-first day of December, which shall be included in the annual report of the Department of Labour, outlining activities under this Act during the year.

Penalty for offence.

19. (1) Every person who fails to comply with any provision of this Act, or the regulations, or with any order made under this Act, is guilty of an offence.

(2) If an employer is found guilty of a contravention of section 5, the judge by whom he is found guilty, in addition to imposing any other penalty, shall direct the employer to employ or re-employ the person and to pay to that person a sum equal to his wages lost by reason of the contravention.

(3) If a trade union is found guilty of a contravention of section 6, the judge by whom the trade union is found guilty, in addition to imposing any other penalty, shall direct the trade union to include in membership or reinstate a member discriminated against contrary to section 6.

Injunction proceedings.

20. (1) Where a person has been convicted of a violation of this Act, the director may apply by way of originating notice to a judge of the Supreme Court for an order enjoining such person from continuing such violation.

(2) The judge, in his discretion, may make such order, and the order may be enforced in the same manner as any other order or judgment of the Supreme Court.

Limitation period.

21. Prosecutions for offences under this Act and complaints under this Act shall not be commenced or received after six months after the commission of the alleged offence.

Prosecution in name of trade union.

22. A prosecution for an offence under this Act may be instituted against a trade union or employers' organization in the name of the trade union or organization, and any act or thing done or omitted by an officer, official, or agent of a trade union or employers' organization within the scope of his authority to act on behalf of the trade union or organization shall be deemed to be an act or thing done or omitted by the trade union or organization.

Privilege.

23. (1) An officer of the department shall not be required by any person or any court to give evidence regarding information obtained by him in the course of his duties under this Act.

(2) No member of the commission, nor the director, shall be required by any court to give evidence relative to information obtained for the purpose of this Act.

(3) No proceeding under this Act shall be deemed invalid by reason of any defect in form or any technical irregularity.

Certain Acts
repealed.

24. The *Equal Pay Act*, being chapter 131 of the *Revised Statutes of British Columbia, 1960*, the *Fair Employment Practices Act*, being chapter 137 of the *Revised Statutes of British Columbia, 1960*, and the *Public Accommodation Practices Act*, being chapter 50 of the Statutes of British Columbia, 1961, are repealed.

Commence-
ment.

25. This Act shall come into force on a day to be fixed by the Lieutenant-Governor by his Proclamation.