

1 - 2 ELIZABETH II

CHAP. 19.

An Act to Prevent Discrimination in regard to Employment and Membership in Trade Unions by reason of Race, National Origin, Colour or Religion.

[Assented to 14th May, 1953.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE.

1. This Act may be cited as the *Canada Fair Employment Practices Act*. Short title.

INTERPRETATION.

2. In this Act,

(a) "Director" means the officer of the Department of Labour designated by the Minister to receive and deal with complaints under this Act;

Definitions.
"Director".

(b) "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;

"Employment agency".

(c) "employee" means any person employed by an employer;

"Employee".

(d) "employer" means a person who employs five or more employees, and includes any person acting on behalf of an employer, but does not include any exclusively charitable, philanthropic, educational, fraternal, religious or social organization or corporation that is not operated for private profit, or any organization that is operated primarily to foster the welfare of a religious or racial group and is not operated for private profit;

"Employer".

(e) "employers' organization" means an organization of employers formed for purposes including the regulation of relations between employers and employees;

"Employers organization".

- "Minister". (f) "Minister" means the Minister of Labour;
- "National origin". (g) "national origin" includes nationality and ancestry;
- "Person". (h) "person" includes employment agency, trade union and employers' organization; and
- "Trade union". (i) "trade union" means any organization of employees formed for the purpose of regulating relations between employees and employers.

APPLICATION.

- Application **3.** This Act applies to and in respect of employment upon or in connection with any work, undertaking or business that is within the legislative authority of the Parliament of Canada, including, but not so as to restrict the generality of the foregoing,
- (a) works, undertakings or businesses operated or carried on for or in connection with navigation and shipping, whether inland or maritime, including the operation of ships and transportation by ship anywhere in Canada;
 - (b) railways, canals, telegraphs and other works and undertakings connecting a province with any other or others of the provinces, or extending beyond the limits of a province;
 - (c) lines of steam and other ships connecting a province with any other or others of the provinces or extending beyond the limits of a province;
 - (d) ferries between any province and any other province or between any province and any country other than Canada;
 - (e) aerodromes, aircraft and lines of air transportation;
 - (f) radio broadcasting stations;
 - (g) banks and banking;
 - (h) such works or undertakings as, although wholly situate within a province, are before or after their execution declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the provinces; and
 - (i) any work, undertaking or business outside the exclusive legislative authority of the legislature of any province;
- and to and in respect of
- (j) employers engaged in any such work, undertaking or business;
 - (k) employees or other persons employed or seeking employment upon or in connection with any such work, undertaking or business;
 - (l) trade unions composed of such employees; and
 - (m) the employment by any corporation established to perform any function or duty on behalf of the Government of Canada of employees.

PROHIBITED EMPLOYMENT PRACTICES.

4. (1) No employer shall refuse to employ or to continue to employ, or otherwise discriminate against any person in regard to employment or any term or condition of employment because of his race, national origin, colour or religion. Employers not to discriminate.

(2) No employer shall use, in the hiring or recruitment of persons for employment, any employment agency that discriminates against persons seeking employment because of their race, national origin, colour or religion. Use of employment agencies that discriminate.

(3) No trade union shall exclude any person from full membership or expel or suspend or otherwise discriminate against any of its members or discriminate against any person in regard to his employment by any employer, because of that person's race, national origin, colour or religion. Membership in trade unions.

(4) No employer or trade union shall discharge, expel or otherwise discriminate against any person because he has made a complaint or given evidence or assisted in any way in respect of the initiation or prosecution of a complaint or other proceeding under this Act. Discharge, expulsion, etc.

(5) No person shall use or circulate any form of application for employment or publish any advertisement in connection with employment or prospective employment or make any written or oral inquiry in connection with employment that expresses either directly or indirectly any limitation, specification or preference as to race, national origin, colour or religion unless the limitation, specification or preference is based upon a *bona fide* occupational qualification.

(6) Whenever any question arises under this section as to whether a trade union discriminates contrary to this section, no presumption shall be made or inference drawn from the name of the trade union.

ENFORCEMENT PROCEDURE.

5. (1) Any person claiming to be aggrieved because of an alleged violation of any of the provisions of this Act may make a complaint in writing to the Director and the Director may instruct an officer of the Department of Labour or any other person to inquire into the complaint. Complaint.

(2) The officer shall forthwith inquire into the complaint and endeavour to effect a settlement of the matters complained of. Inquiry.

(3) If the officer is unable to effect a settlement of the matters complained of, the Minister may upon the recommendation of the Director refer the matters involved in the complaint to a Commission, consisting of one or more Reference to Industrial Inquiry Commission.

persons, to be appointed by the Minister and to be known as an Industrial Inquiry Commission, for investigation with a view to the settlement of the complaint.

Inquiry by Commission.

(4) Immediately following its appointment, an Industrial Inquiry Commission shall inquire into the matters referred to it and shall give full opportunity to all parties to present evidence and make representations and, in the case of any matter involved in a complaint in which settlement is not effected in the meantime, if it finds that the complaint is supported by the evidence, shall recommend to the Minister the course that ought to be taken with respect to the complaint, which may include reinstatement, with or without compensation for loss of employment.

Majority recommendation prevails.

(5) If the Industrial Inquiry Commission is composed of more than one person, the recommendations of the majority constitute the recommendations of the Commission.

Clarification of recommendations.

(6) After an Industrial Inquiry Commission has made its recommendations, the Minister may direct it to clarify or amplify its recommendations, and they shall be deemed not to have been received by the Minister until they have been so clarified or amplified.

Copy of recommendations to persons affected.

(7) Upon receipt of the recommendations of an Industrial Inquiry Commission appointed under this section, the Minister shall furnish a copy thereof to each of the persons affected and shall publish the same if he deems it advisable in such manner as he sees fit.

Minister's order.

(8) The Minister may issue whatever order he deems necessary to carry the recommendations of the Commission into effect and any order made by the Minister under this subsection is final and conclusive and is not open to question or review.

Compliance with order.

(9) Every person in respect of whom an order is made under this section shall comply with such order.

Procedure.

(10) An Industrial Inquiry Commission may determine its own procedure and may receive and accept such evidence and information on oath, affidavit or otherwise as in its discretion it sees fit, whether admissible in a court of law or not, and has all the powers of an Industrial Inquiry Commission appointed under the *Industrial Relations and Disputes Investigation Act*.

Remuneration.

(11) The person designated by the Minister to be the Chairman of an Industrial Inquiry Commission, and the other members thereof, shall be paid remuneration and expenses at the same rate as is payable to a Chairman and members of an Industrial Inquiry Commission appointed under the *Industrial Relations and Disputes Investigation Act*.

Other proceedings not affected.

(12) Nothing in this section operates to restrict the right of any aggrieved person to initiate proceedings under any

other provisions of this Act before a court, judge or magistrate against any person for an alleged contravention of this Act.

OFFENCES AND PENALTIES.

6. Every person who does anything prohibited by this Act or who refuses or neglects to do anything required by this Act is guilty of an offence, and except where some other penalty is by this Act provided for the act, refusal or neglect, is liable on summary conviction

(a) if an individual, to a fine not exceeding one hundred dollars, and

(b) if a corporation, trade union, employers' organization or employment agency, to a fine not exceeding five hundred dollars.

7. Where an employer is convicted for violation of section 4 by reason of his having suspended, transferred, laid off or discharged an employee contrary to this Act, the convicting court, judge or magistrate, in addition to any other penalty, may order the employer to pay compensation for loss of employment to the employee not exceeding such sum as in the opinion of the court, judge or magistrate, as the case may be, is equivalent to the wages, salary or remuneration that would have accrued to the employee up to the date of conviction but for such suspension, transfer, lay off or discharge, and may order the employer to reinstate the employee in his employ at such date as in the opinion of the court, judge or magistrate is just and proper in the circumstances in the position the employee would have held but for such suspension, transfer, lay off or discharge.

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

9. (1) No prosecution for an offence under this Act shall be instituted without the consent in writing of the Minister.

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

Other
inquiries.

10. The Minister where he deems it expedient may undertake or cause to be undertaken such inquiries and other measures as appear advisable to him to promote the purposes of the Act.

Exception.

11. Nothing in this Act shall be construed to require a person to employ anyone or to do or refrain from doing any other thing contrary to any instruction, direction or regulation given or made by or on behalf of the Government of Canada in the interests of the safety or security of Canada or any state allied or associated with Canada.

REGULATIONS.

Regulations.

12. The Governor in Council may make regulations to carry out the purposes and provisions of this Act.

COMING INTO FORCE.

Coming into
force.

13. This Act shall come into force on the 1st day of July, 1953.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953