

Fine

43. A fine or penalty imposed under sections 41 and 42 inures to the benefit of the board which has control of the property in respect of which the offence was committed.

Repeal

Repeal

44. The *Public Libraries Act, 1975* is repealed.

## CHAPTER 39

AN ACT TO AMEND CERTAIN ACTS HAVING  
REGARD TO THE CANADIAN CHARTER OF  
RIGHTS AND FREEDOMS

*(Assented to July 8, 1988)*

### *Amendments*

Section:

1. Short title  
PART I  
EQUALITY RIGHTS
2. Adoption of Children  
Act, 1972
3. Change of Name Act, 1975
4. Child Welfare Act, 1972
5. Children of Unmarried  
Parents Act, 1972
6. Election Act
7. Homes for Special Care  
Act, 1973
8. Hospitals Act, 1971
9. Maintenance Act
10. Members of the House of  
Assembly (Retiring  
Allowances) Act
11. Memorial University Act
12. Memorial University  
(Pensions) Act
13. Rehabilitation Act
14. S.I. 10h's Fire Department  
Act, 1972
15. Social Assistance Act, 1977
16. Uniformed Services Pensions  
Act  
PART II  
THE RIGHT TO BE  
PRESUMED INNOCENT  
UNTIL PROVEN GUILTY
17. Child Welfare Act, 1972

Section:

18. Day Care and Homemaker  
Services Act, 1975  
PART III  
POWERS OF ENTRY,  
INSPECTION  
AND SEIZURE
19. Child Welfare Act, 1972
20. Day Care and Homemaker  
Services Act, 1975
21. Department of Environment  
Act
22. Fish Inspection Act  
PART IV  
FREEDOM FROM  
ARBITRARY DETENTION
23. Children of Unmarried  
Parents Act, 1972  
PART V  
RIGHT TO VOTE
24. Blind Persons Allowances Act
25. Election Act
26. Old Age Assistance Act
27. Social Assistance Act, 1972  
PART VI  
MISCELLANEOUS
28. Child Welfare Act, 1972
29. City of S.I. 10h's Act
30. Election Act
31. Nuisances and Municipal  
Regulations Act
32. S.I. 10h's Assessment Act

*Be it enacted by the Lieutenant-Governor and House of Assembly  
in Legislative Session convened, as follows:*

Short title                    1.    This Act may be cited as *The Chaner of Rights Amendment Act, 1988.*

PART I

EQUALITY RIGHTS

1972 No.36  
as amended

2.    (1) Paragraphs (a), (b) and (c) of subsection (3) of section 4 of *The Adoption of Children Act, 1972* are repealed and the following substituted:

"(a) a mother or father of the child; or

(b) a mother, father, sister, brother, aunt or uncle of a mother or father of the child."

(2) Subsection (5) of section 4 of the Act is amended by striking out the phrase "or (c)".

(3) Subsection (2) of section 8 of the Act is repealed.

(4) Subsection (1) of section 21 of the Act is amended by striking out the words "legal descendants but to no other of the".

1978 c.S7  
as amended

3.    Section 4 of *The Change of Name Act, 1978* is amended by striking out the word "ordinarily".

1972 No.37 as  
amended

4.    (1) Section 16 of *The Child Welfare Act, 1972* is repealed.

(2) Subsection (4) of section 19 of the Act is repealed.

(3) Section 38 of the Act is repealed and the following substituted:

Employment of  
child

"38. A person who employs a child without the written consent of the child's parents or guardian is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars or, in default of payment to imprisonment for a term not exceeding two months, or to both the fine and the imprisonment."

(4) Subsection (3) of section 44 of the Act is repealed.

(5) Subsection (1) of section 45 of the Act is amended in paragraph (a) by adding the word "and" after the semicolon, by repealing paragraphs (b) and (c) and by substituting the following:

"(b) is a mother, father, sister, brother, aunt or uncle of a parent of the child.",

1972 No.33  
as amended

5. (1) Paragraph (f) of section 2 of *The Children of Unmarried Parents Act*, 1972 is repealed and the following substituted:

"(f) "mother" means

(i) a woman who

(A) has, while single, been delivered of a child,

(B) being single, is pregnant and likely to be delivered of a child,

(C) was single at the time of her conception of a child, whether or not she is single at the time of the birth of the child, or

(D) is single at the date of the child's birth, whether or not she is single at the date of commencement of affiliation proceedings under this Act, or

(ii) a married woman who

(A) is living apart from her husband and has been delivered of a child whose natural father is not her husband, or

(B) is pregnant and likely to be delivered of a child and was living apart from her husband at the time of the conception of the child;".

(2) Section 5 of the Act is repealed and the following substituted:

Parent may  
apply to Direc-  
tor

"5. The parent of a child, or a person who has the custody of a child or who has undertaken the care and maintenance of a child or who has supplied the parent or a child with necessaries, may apply to the Director for aid and advice in all matters pertaining to the child, and the Director shall then take the lawful action that seems to the Director to be in the interests of the parent or the child.",

(3) Subsection (2) of section 27 of the Act is repealed.

1970 c.106  
as amended

6. Paragraph (c) of subsection (1) of section 58 of *The Election Act* is repealed.

1973 No.26  
as amended

7. Section 8 of *The Homes for Special Care Act, 1973* is repealed.

1971 No.81  
as amended

8. Subsection (2) of section 8 of *The Hospitals Act, 1971* is repealed and the following substituted:

"(2) Every person is qualified to serve as a member of a Hospital Board who is a resident of the province."

RSN 1970 c.223  
as amended

9. (1) Section 7 of *The Maintenance Act* is repealed.

(2) Subsection (1) of section 9 of the Act is amended by striking out the phrase "or 7".

1975-76 No.IS  
as amended

10. (1) Subsection (I) of section 13 and subsection (1) of section 24 of *The Members of the House of Assembly (Retiring Allowances) Act* are amended by striking out the words "physical or mental infirmity" and by substituting the words "an infirmity".

(2) Subsection (1) of section 25 of the Act is amended by striking out the words "physical or mental incapacity" and by substituting the words "an incapacity".

(3) Paragraphs (b) and (c) of section 32 of the Act are repealed and the following substituted:

"(b) direct that payment be made of the whole or part of an allowance to the guardian of a former member or to a person who maintains a former member who is suffering from an incapacity."

RSN 1970c.231  
as amended

II. Section 48 of *The Memorial University Act* is repealed.

RSN 1970 c.232  
as amended

12. Paragraph (f) of subsection (1) of section 31 of *The Memorial University (Pensions) Act* is amended by deleting the phrase "his widow" and substituting "to the employee's surviving spouse".

1978 c.18  
as amended

13. Section 7 of *The Rehabilitation Act* is amended by striking out the word "ordinarily".

1972 No.12  
as amended

14. (1) Paragraph (d) of section 2 of *The St. John's Fire Department Act, 1972* is amended by striking out the word "fireman" and by substituting the word "firefighter".

(2) Paragraph (e) of section 2 of the Act is amended by striking out the word "man" and by substituting the word "person".

(3) Section 11 of the Act is amended by striking out the word "firemen" wherever it occurs and by substituting the word "firefighters".

1977 c.102  
as amended

**IS.** (1) Paragraph (k) of section 2 of *The Social Assistance Act, 1977* is repealed and the following substituted:

"(k) "parent" includes mother, father, stepmother, stepfather and an adoptive mother or adoptive father;"

(2) Paragraph (a) of section 6 of the Act is amended by inserting immediately after the word "adults" a comma and the word "children".

1982 c.49  
as amended

**16.** Paragraph (b) of section 23 of *The Uniformed Services Pensions Act* is amended by striking out the words and commas "physical, or, subject to applicable law, mental incapacity" and by substituting the words "an incapacity".

## PART II

### THE RIGHT TO BE PRESUMED INNOCENT UNTIL PROVEN GUILTY

1972 No.37  
as amended

**17.** (1) Subsection (9) of section 39 of *The Child Welfare Act, 1972* is repealed.

(2) Section 40 of the Act is repealed.

1975 No.67  
as amended

**18.** Subsections (1) and (2) of section 13 of *The Day Care and Homemaker Services Act, 1975* are repealed and the following substituted:

Proceedings for  
cancellation

"13.(1) Subject to subsection (4) of section 11, where an objection is made to the Board against renewal of a licence or where the Board proposes to cancel or suspend or not to renew a licence, the Board shall, by notice in writing, advise the licensee of a hearing to determine if suspension, cancellation or non-renewal is appropriate and the licensee may be represented at the hearing either personally or by legal counsel.

(2) The notice shall state the time and place of the hearing and shall be sent by registered mail by the Board to the licensee at the licensee's last known address at least seven clear days before the date of the hearing."

## PART III

## POWERS OF ENTRY, INSPECTION AND SEIZURE

1972 No.37  
as amended

Possession of  
harmful drugs

19. Section 20 of The *Child Welfare Act* is repealed and the following substituted:

"20.(1) In exigent circumstances and where there are reasonable and probable grounds for believing that a child is in possession of intoxicating liquor or harmful drugs

- (a) a constable or other peace officer;
- (b) a social worker;
- (c) a school teacher;
- (d) the Director; or
- (e) a person acting under the authority or direction of the Director

may take that child to the home of the child, or to a receiving home, or another place in which children are cared for under this Act, for the purpose of having the clothing of the child searched by a suitable person and, if anything referred to in this section is found upon that search, it shall be disposed of as the Director may order.

(2) In this section exigent circumstances include circumstances in which the delay necessary to obtain the warrant would result in danger to human life or safety or the loss or destruction of evidence.

(3) A judge who is satisfied by information upon oath or affirmation that there are reasonable and probable grounds for believing that a child is in possession of cigarettes, cigarette papers, tobacco, intoxicating liquor, harmful drugs, an obscene book or other obscene printed, type-written matter or an obscene picture, photograph, model or other object, may issue a warrant authorizing a person referred to in subsection (1) to

- (a) take that child to the home of the child;
- (b) a receiving home; or
- (c) another place in which children are cared for under this Act

for the purpose of having the clothing of the child searched by a suitable person and, if anything referred to in this section is found upon that search, it shall be disposed of as the Director may order."

1975 No.67  
as amended

20. Section 18 of *The Day Care and Homemaker Services Act, 1975* is amended by adding immediately after subsection (3) the following:

"(4) Notwithstanding subsection (1), a member of the Board, an inspector or authorized representative of the Board may exercise the power of search referred to in that subsection without a warrant issued under subsection (2) if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would not be practical to obtain the warrant.

(5) For the purposes of subsection (4), exigent circumstances include circumstances in which the delay necessary to obtain the warrant would result in danger to human life or safety or the loss or destruction of evidence."

1981 c.10  
as amended

21. Section 33 of *The Depanmellt of Environment Act* is repealed and the following substituted:

Powers of inspectors

1t33.An inspector or other officer appointed under this Act, or the regulations may at all reasonable times, so long as it is reasonably necessary to determine compliance with this Act, enter into and go upon any land or body of water for the purpose of carrying out his or her duties, powers and functions, including inspecting and testing air, soil or a body of water."

RSN 1970 c.132  
as amended

22. (1) Subsection (1) of section 7 of *The Fish Inspection Act* is repealed and the following substituted:

Powers of inspectors

"7.(1) An inspector may at all reasonable times, so long as it is reasonably necessary to determine compliance with this Act and the regulations,

- (a) enter an establishment, or a vehicle used for the carriage or storage of fish, and may open a container that he or she has reason to believe contains fish;
- (b) require to be produced, for inspection or for the purpose of obtaining copies or extracts, books, shipping bills, bills of lading, or other documents or papers relating to the processing, transporting and marketing of fish; and
- (c) take samples for inspection."



(2) Subsection (1) of section 10 of the Act is repealed and the following substituted:

Seizure of fish  
and containers

"10.(1) Where an inspector believes on reasonable grounds that a person has contravened a provision of this Act or the regulations, the inspector may, with a warrant issued under subsection (1.1), seize all fish and containers by means of or in relation to which he or she reasonably believes the offence was committed.

(1.1) A Provincial Court judge or justice of the peace who is satisfied by an information upon oath or affirmation that there are reasonable and probable grounds for believing that there is on any premises anything that there are reasonable grounds to believe will afford evidence with respect to an offence under this Act or the regulations may issue a warrant authorizing an inspector named in the warrant to enter and seize all fish and containers that are considered necessary, subject to the conditions that may be specified in the warrant."

#### PART IV

##### FREEDOM FROM ARBITRARY DETENTION

1972 No.33  
as amended

23. (1) Paragraph (b) of subsection (1) of section 7 of *The Children of Unmarried Parents Act*, 1972 is repealed and the following substituted:

"(b) may, if satisfied by information upon oath or affirmation that there are reasonable and probable grounds for believing that the alleged father will refuse to appear in court, issue a warrant authorizing a constable to arrest the alleged father and bring him before the court."

#### PART V

##### RIGHT TO VOTE

RSN 1970 c.22  
as amended

24. Section 6 of *The Blind Persons Allowances Act* is repealed.

1970 c.106  
as amended

25. (1) Section 4 of *The Election Act* is repealed and the following substituted:

Disqualification  
from voting

"4. The chief electoral officer is disqualified from voting."

(2) Section 53 of the Act is amended by adding immediately after subsection (2) the following:

"(2.1) The entrances and facilities of each polling station in a polling division shall be accessible to voters in the polling division who are physically disabled."

RSN 1970 c.280  
as amended

26. Section 6 of *The Old Age Assistance Act* is repealed.

1977 c.ID2  
as amended

27. Section 21 of *The Social Assistance Act, 1977* is repealed.

#### PART 11

#### Misc EILANEOUS

1972 No.37  
as amended

28. Section 34 of *The Child Welfare Act, 1972* is repealed and the following substituted:

Offence

"34. A person who wilfully commits or omits an act producing, promoting or contributing to a child being or becoming a child in need of protection, is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars or, in default of payment, to imprisonment for a term not exceeding two months, or to both the fine and the imprisonment."

1970c.40  
as amended

29. (1) Sections 275 and 276 of *The City of St. John's Act* are repealed.

(2) Subsection (6) of section 294 of the Act is repealed and the following substituted:

"(6) If a person liable to pay poll tax fails to pay, the City Clerk may enforce payment by the means provided by this Act for the enforcement or collection of a tax payable to the City."

1970 c.106  
as amended

30. (1) Paragraph (b) of section 3 of *The Election Act* is amended by deleting the words "or other British subject".

(2) Paragraph (b) of section 3A of the Act is amended by deleting the words "or other British subject".

(3) This section does not come into force until July 1, 1989.

RSN c.276  
as amended

31. (1) Section 11 of *The Nuisances and Municipal Regulations Act* is repealed.

(2) Section 26 of the Act is repealed.

1988

The *Charter of Rights Amendment Act, 1988*

Chapter 39

1980 c.39  
as amended

32. Sections 101 and 102 of *The St. John's Assessment Act* are repealed.