

CHAPTER 18

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

[Assented to April 18th, 1953]

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

- Short title. **1.** This Act may be cited as: "The Fair Employment Practices Act".
- Definitions: **2.** In this Act,
- "commissison" (a) "commission" means an industrial inquiry commission appointed under section 5;
- "director" (b) "director" means the officer of The Department of Labour designated by the minister to receive and deal with complaints under this Act;
- "employment agency" (c) "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;
- "employee" (d) "employee" means any person who is in receipt of, or entitled to, compensation for labour or services performed for another, but does not include an independent contractor;
- "employer" (e) "employer" means a person, firm, corporation, agent, manager, representative, contractor, sub-contractor, or principal, having control or direction of, or responsible, directly or indirectly, for the employment of an employee;

"employers'
organization"

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

"minister"

(g) "minister" means the Minister of Labour;

"national origin"

(h) "national origin" includes ancestry;

"person"

(i) "person" includes employment agency, trade union, and employers' organization;

"trade union"

(j) "trade union" means any organization of employees formed for purposes including the regulation of relations between employees and employers.

Where Act not
applicable.

3. This Act does not apply

(a) to a person employed in domestic service in a private home; or

(b) to any exclusively charitable, philanthropic, educational, fraternal, religious, or social, organization or corporation that is not operated for private profit, or to any organization that is operated primarily to foster the welfare of a religious or racial group and is not operated for private profit; or

(c) to an employer who employs fewer than five employees.

Employers not
to discriminate.

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 employments, because of his race, national origin, colour, or religion, unless the refusal is based upon a *bona fide* occupational qualification.

Use of employ-
ment agencies
that discrimi-
nate.

(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.

Membership in
trade unions.

(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.

Discharge,
expulsion, etc.

(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.

Advertisements.

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

Complaint.

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

Inquiry.

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

Reference to
industrial
inquiry
commission.

(3) Where the officer is unable to effect a settlement of the matters complained of, the minister, upon the recommendation of the director, may refer the matters involved in the complaint to a commission, consisting of one or more 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, the 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, it 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 commission is composed of more than one person, the recommendations of the majority constitute the recommendations of the commission.

Communication of recommendations.

(6) After the 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 the commission, the minister shall furnish a copy thereof to each of the persons affected and shall publish them, if he deems it advisable, in such manner as he sees fit.

Order of minister and appeal.

(8) The minister may issue whatever order he deems necessary to carry into effect the recommendations of the commission; but any person affected by such an order may, at any time within ten days after personal service of the order upon him, appeal against the order to a judge of the Court of Queen's Bench.

Procedure on appeal.

(9) The appeal shall be by application by way of originating notice of motion to vary or set aside the order.

Service of notice.

(10) The appellant shall, not less than ten days before the date for the hearing of the appeal stated in the notice of motion, serve on the complainant and on the minister or the Deputy Minister of Labour a copy of the notice of motion.

Hearing of appeal and effect of decision.

(11) The judge may hear the appeal on the day, and at the time, stated in the notice or may adjourn the hearing for such time as he deems fit, and may direct notice thereof to be served on such other persons as he deems advisable; and the hearing thereof shall be a trial *de novo*, and the decision of the judge shall be conclusive and not subject to further appeal.

Compliance with order.

(12) Every person in respect of whom an order is made under this section shall comply therewith, unless he appeals therefrom as herein provided; in which event, unless it is set aside, he shall comply with the order as affirmed or as varied on the appeal.

Procedure.

(13) A 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 Manitoba Labour Relations Act.

Remuneration.

(14) The person designated by the minister to be the chairman of a commission, and the other members thereof,

shall be paid remuneration and expenses at the same rate as to the employee up to the date of conviction but for the 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 judge or magistrate is just and is payable to a chairman and members of an industrial inquiry commission appointed under The Manitoba Labour Relations Act.

Other proceedings not affected.

(15) 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.

Limitation on initiation of proceedings.

(16) Where a person initiates proceedings as mentioned in subsection (15) he shall not make a complaint under subsection (1); and where a person make a complaint under subsection (1) he shall not initiate proceedings as mentioned in subsection (15).

Notice to commission of initiation of proceedings.

(17) Where a commission is appointed, if the director is informed that proceedings have been initiated by the complainant as mentioned in subsection (15), he shall forthwith give notice thereof to the chairman of the commission.

Offence.

6. Every person who does anything prohibited by this Act, or who refuses, omits, or neglects, to do anything required by this Act, is guilty of an offence, and except where another penalty is by this Act provided for the act, refusal, omission, 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.

Payment to employee and reinstatement.

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 judge or magistrate, in addition to any other penalty, may order the employer to pay to the employee compensation for loss of employment not exceeding such sum as in the opinion

of the judge or magistrate, as the case may be, is equivalent to the wages, salary, or remuneration, that would have accrued proper in the circumstances, in the position the employee would have held but for the suspension, transfer, lay off, or discharge.

Prosecution of employers' organization or trade union.

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 a 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.

Consent to prosecution.

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

Technical defects.

(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.

Exceptions.

11. Nothing in this Act requires 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

(a) 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; or

(b) under, and in accordance with, The Civil Defence Act.

Regulations.

12. For the purpose of carrying out the provisions of this Act, according to their intent, the Lieutenant-Governor-in-Council may make such regulations and orders as are ancillary thereto and are not inconsistent therewith, and every regulation or order made under, and in accordance with the authority granted by, this section has the force of law.

Commence-
ment of Act.

13. This Act shall come into force on the day it receives the royal assent.

WINNIPEG

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