

## CHAPTER 104

## THE HUMAN RIGHTS ACT.

(Assented to August 13th, 1970)

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

**Definitions.**

1 In this Act

- (a) "commercial unit" means any building or other structure or part thereof that is used or occupied or is 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 Manitoba Human Rights Commission;
- (c) "creed" means religious creed;
- (d) "employers' organization" means an organization of employers formed for purposes that include the regulation of relations between employers and employees;
- (e) "employment agency" includes a person who undertakes with or without compensation to procure employees and a person who undertakes with or without compensation to procure employment for persons;
- (f) "minister" means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;
- (g) "pay" means remuneration in any form;
- (h) "person", in addition to the extended meaning given it by The Interpretation Act, includes an employment agency, an employers' organization and a trade union;
- (i) "trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers.

S.M. 1970, c. 104, s. 1.

## PART I

## PROHIBITIONS

**Prohibition against discriminatory publications.**

2 (1) No person shall publish, display or cause or permit to be published or displayed on any lands or premises, or in any newspaper, or through a radio broadcasting station, or by means of any other medium that he owns, controls, distributes or sells, any notice, sign, symbol, emblem or other representation that is likely to tend to deprive, abridge or otherwise restrict, because of race, creed, religion, sex, colour or ethnic or national origin of any person or class of persons, the enjoyment by any such person or class of persons of any right to which he or it is entitled under the law.

**Effect on freedom of speech.**

2 (2) Nothing in subsection (1) restricts the right to freedom of speech in accordance with the law, upon any subject.

**Discrimination prohibited in places to which public admitted.**

2 (3) 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 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 in any place to which the public is customarily admitted,

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

S.M. 1970, c. 101, s. 2.

**Discrimination prohibited in apartment buildings.**

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

(a) deny to any person or class of persons occupancy of any commercial unit or any self-contained dwelling unit; or

(b) discriminate against any person or class of persons with respect to any term or condition of occupancy of any commercial unit or any self-contained dwelling unit,

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

S.M. 1970, c. 104, s. 3.

**Employers not to discriminate in employment practices.**

4 (1) No employer or person acting on behalf of an employer shall refuse to employ or to continue to employ any person or discriminate against any person with regard to employment or any term or condition of employment because of his race, creed, religion, sex, colour, nationality, ancestry or place of origin.

**Membership in trade union.**

4 (2) No trade union, employer's organization or other occupational association shall exclude from membership or expel or suspend any person or member, or discriminate against any person or member

(a) because of his race, religious beliefs, marital status, colour, sex, ancestry or place of origin; or

(b) 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

**Employment applications and advertisements not to discriminate.**

4 (3) 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 that expresses either directly or indirectly any limitation, specification or preference as to the race, creed, religion, sex, colour, nationality, ancestry or place of origin of any person or that requires an applicant to furnish any information concerning race, creed, religion, colour, nationality, ancestry or place of origin.

**Where section does not apply.**

4 (4) This section does not apply to an exclusively religious, philanthropic, educational, fraternal or social organization that is not operated for private profit or to any organization that is operated primarily to foster the welfare of a religious or ethnic group and that is not operated for private profit, where in any such case race, colour, creed, religion, sex, nationality, ancestry or place of origin is a reasonable occupational qualification.

S.M. 1970, c. 104, s. 4.

**Discrimination, etc., prohibited for taking part in proceeding under Act.**

5 No person shall,

- (a) refuse to employ or continue to employ any person;
  - (b) threaten to dismiss or threaten to penalize in any other way any person in regard to his employment or any term or condition thereof;
  - (c) discriminate against any person in regard to his employment or any term or condition thereof; or
  - (d) intimidate or coerce or impose any pecuniary or other penalty upon any person;
- on the ground that such person,
- (e) has made or may make a complaint under this Act;
  - (f) has made or may make a disclosure concerning the matter complained of;
  - (g) has testified or may testify in a proceeding under this Act; or
  - (h) has participated or may participate in any other way in a proceeding under this Act.

S.M. 1970, c. 104, s. 5.

**No discrimination in contracts.**

6 No person shall, in making available to any person, a contract that is offered to the public generally

- (a) discriminate against any person or class of persons; or
- (b) include terms or conditions in any such contract that discriminate against a person or class of persons;

on the basis of race, creed, religion, sex, colour or ethnic or national origin of that person or class of persons.

S.M. 1970, c. 104, s. 6.

PART II

HUMAN RIGHTS COMMISSION

**Manitoba Human Rights Commission established.**

**7 (1)** There is hereby established a commission to be called "The Manitoba Human Rights Commission".

**Composition.**

**7 (2)** The Commission shall be composed of such numbers of persons as may be determined from time to time by the Lieutenant Governor in Council.

**Members.**

**7 (3)** The members of the Commission shall be appointed by the Lieutenant Governor in Council.

**Chairman.**

**7 (4)** The Lieutenant Governor in Council may designate one of the members as chairman.

**Vacancies.**

**7 (5)** The Lieutenant Governor in Council may fill vacancy in the membership of the Commission.

**Remuneration and term of office.**

**7 (6)** The Lieutenant Governor in Council may determine the term of office and the remuneration of the members of the Commission.

S.M. 1970, c. 104, s. 7.

**Responsibility.**

**8** The Commission is responsible to the Minister for the administration of this Act.

S.M. 1970, c. 104, s. 8.

**Function.**

**9** The Commission has power to administer this Act and without limiting the generality of the foregoing, it is the function of the Commission,

- (a) to forward the principle that every person is free and equal in dignity and rights without regard to race, creed, religion, sex, colour, nationality, ancestry or place of origin;
- (b) to promote an understanding of, acceptance of and compliance with this Act;
- (c) to develop and conduct educational programmes designed to eliminate discriminatory practices related to race, creed, religion, sex, colour, nationality, ancestry or place of origin;
- (d) to disseminate knowledge and promote understanding of the civil and legal rights of residents of the province and to conduct educational programmes in that respect;
- (e) to further the principle of equality of opportunities and equality in the exercise of civil and legal rights regardless of status

S.M. 1970, c. 104, s. 9.

**Complaints.**

10 (1) The Commission itself may inquire, or 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 Commission to inquire into the complaint.

**Form of complaint.**

10 (2) Every complaint under subsection (1) shall be on a form prescribed by the Commission and shall be mailed or delivered to the Commission at its office.

**Inquiry by Commission.**

10 (3) The Commission shall forthwith, as soon as is reasonably possible, inquire into the complaint.

S.M. 1970, c. 104, s. 10.

**Powers of Commission.**

11 (1) The Commission may determine its procedure and each member thereof has all the powers of a commissioner under Part V of The Manitoba Evidence Act, and Part V excepting section 82 of that Act, applies to any inquiry being made by the Commission, but no notice of the authorization or of the purpose or scope of the inquiry is to be made by the Commission or the time or place of the inquiry need be published under section 83 of that Act.

**Opportunity to present evidence.**

11 (2) The Commission shall give all parties effected by a complaint being inquired into by it, full opportunity to present evidence and to be represented by counsel and to make submissions and, if it finds that the complaint is supported by the evidence it shall recommend to the minister the course of action that ought to be taken with respect to the complaint.

**Majority recommendations to prevail.**

11 (3) The recommendations of the majority of the Commission are the recommendations thereof.

**Clarification of recommendations.**

11 (4) After the Commission has made its recommendations, the minister may direct it to clarify or amplify any of them and they shall be deemed not to have been received by the minister until they have been so clarified or amplified.

**Minister's orders.**

11 (5) The minister, on the recommendation of the Commission, may issue whatever order he deems necessary to carry out the recommendations of the Commission.

S.M. 1970, c. 104, s. 11.

**Compliance with order.**

12 (1) Subject to subsection (2), every person in respect of whom an order is made by the minister under this Act shall comply therewith.

**Compliance with order after appeal.**

12 (2) Where an order of the minister is appealed and that order is affirmed or varied, the person affected by the order as affirmed or varied shall comply therewith.

S.M. 1970, c. 104, s. 12.

**Appeal.**

13 (1) Any person affected by an order made by the minister 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.**

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

**Service of notice.**

13 (3) 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 a copy of the notice of motion.

**Hearing and disposal of appeal.**

13 (4) The judge may hear an 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 the 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 final and not subject to further appeal.

S.M. 1970, c. 104, s. 13.

PART III

MISCELLANEOUS

**Cost of administration.**

14 The costs of administering this Act shall be paid from and out of the Consolidated Fund with moneys authorized by an Act of the Legislature to be so paid and applied.

S.M. 1970, c. 104, s. 14

**Penalties.**

15 (1) Every person who deprives, abridges or otherwise restricts or attempts to deprive, abridge or otherwise restrict any person or class of persons in the enjoyment of a right under this Act, or who contravenes any provision of this Act, is guilty of an offence and liable, on summary conviction,

(a) if an individual, to a fine of not less than fifty dollars and not more than five hundred dollars; or

(b) if a corporation, trade union, employers' organization, or employment agency, to a fine of not less than two hundred dollars and not more than one thousand dollars.

**Laying of informations.**

15 (2) A prosecution for an offence under this Act may be commenced on the information of any person alleging on behalf of himself or of any class of persons that a right that he or the class of persons, or a member of that class of persons, has under this Act been denied, abridged or restricted.

S.M. 1970, c. 104, s. 15.

**Injunction.**

16 A person who deprives, abridges or otherwise restricts or attempts to deprive, abridge or otherwise restrict a person or class of persons in the enjoyment of a right under this Act because of the race, creed, religion, sex, colour or ethnic or national origin of the person or class of persons; may be restrained by any injunction issued in an action in the Court of Queen's Bench brought by any person against the person responsible for the deprivation, abridgement or other restriction, or any attempt thereat.

S.M. 1970, c. 104, s. 16.

**Crown bound.**

17 The Crown, and every servant and agent of the Crown, is bound by this Act.

S.M. 1970, c. 104, s. 17.

**Payment to employee and reinstatement.**

18 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 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 proper in the circumstances, in the position the employee would have held but for the suspension, transfer, lay-off, or discharge.

S.M. 1970, c. 104, s. 18.

**Prosecution of employers' organization or trade union.**

19 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.

S.M. 1970, c. 104, s. 19.

**Consent to prosecution.**

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

**Technical defects.**

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

S.M. 1970, c. 104, s. 20.

**Reference in continuing consolidation.**

**21** This Act may be referred to as Chapter H175 in the continuing consolidation of the Statutes of Manitoba.

S.M. 1970, c. 104, s. 21.

**Repeal.**

**22** The following Acts are repealed:

- (a) The Fair Accommodation Practices Act, being chapter F20 of the Revised Statutes of Manitoba, 1970;
- (b) The Fair Employment Practices Act, being chapter F30 of the Revised Statutes of Manitoba, 1970.

**Commencement of Act.**

**23** This Act comes into force on the day it receives the royal assent.