

CHAPTER 9

FAIR EMPLOYMENT PRACTICES ACT

Assented to March 16th, 1956.

Her Majesty, by and with the advice and consent of the Legislative Assembly of New Brunswick, enacts as follows:

1. In this Act,

(a) "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;

(b) "employers' organization" means an organization of employers formed for purposes that include the regulation of relations between employers and employees;

(c) "Minister" means the Minister of Labour;

(d) "national origin" includes nationality and ancestry;

(e) "person" in addition to the extended meaning given it by the Interpretation Act, includes employment agency, employers' organization and trade union; and

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

2. (1) This Act binds the Crown in right of the Province.

(2) This Act does not apply

(a) to any domestic employed in a private home,

(b) to any exclusively charitable, philanthropic, educational, fraternal, religious or social organization or corporation that is not operated for private profit,

(c) to any organization or corporation that is operated primarily to foster the welfare of a religious or racial group and is not operated for private profit, nor

(d) to any employer who employs less than five employees.

3. (1) No employer or person acting on behalf of an employer shall

(a) refuse to employ or to continue to employ any person, or

(b) Discriminate against any person in regard to employment or any term or condition of employment

because of his race, national origin, colour or religion.

(2) No employment agency shall discriminate against any person seeking employment because of his race, national origin, colour or religion.

(3) No trade union shall

(a) exclude any person from full membership,

(b) expel, suspend or otherwise discriminate against any of its members, or

(c) discriminate against any person in regard to his employment by an employer

because of that person's race, national origin, colour or religion.

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

(5) No person shall

(a) use or circulate any form of application for employment,

(b) publish any advertisement in connection with employment or prospective employment, or

(c) 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.

4. Any person claiming to be aggrieved because of an alleged violation of this Act may make a complaint in writing to the Minister.

5. (1) The Minister may appoint a conciliation officer to inquire into any complaint made under this Act.

(2) Where the conciliation officer is unable to effect a settlement of the matter complained of, the Minister

(a) may appoint a commission consisting of one or more persons to investigate the complaint, and

(b) may designate one of the members to be Chairman of the commission.

(3) 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.

(4) Upon receipt of the recommendations of the commission, the Minister

(a) shall furnish a copy thereof to each of the persons affected;

(b) shall publish them, if he deems it advisable, in such manner as he sees fit; and

(c) may issue whatever order he deems necessary to carry into effect the recommendations of the commission.

(5) Every person in respect of whom an order is made under clause (c) of subsection (4) shall comply therewith.

6. The conciliation officer appointed under section 5

(a) shall forthwith after he is appointed inquire into the complaint and endeavor to effect a settlement of the matter complained of, and

(b) shall report the results of his inquiries and endeavors to the Minister.

7. (1) The commission appointed under section 5

- (a) shall have all the powers of a conciliation board appointed under the Labour Relations Act,
- (b) shall investigate the matters referred to it,
- (c) shall give full opportunity to all parties to present evidence and make submissions, and
- (d) 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.

(2) When the commission makes its recommendations to the Minister, it may recommend that the course of action include reinstatement, with or without compensation for loss of employment.

(3) If the commission is composed of more than one person, the recommendations of the majority constitute the recommendations of the commission.

(4) Each member of the commission shall be paid such remuneration for his services and expenses as the Lieutenant-Governor in Council prescribes.

8. Every person who fails to comply with any provision of this Act or with any order made under this Act is guilty of an offence and on summary conviction is liable

- (a) if an individual, to a penalty of not more than \$100; or
- (b) if a corporation, trade union, employers' organization or employment agency, to a penalty of not more than \$500.

9. No person shall institute a prosecution for an offence under this Act unless the Minister consents thereto in writing.

10. Where an employer is convicted for a violation of section 3, the convicting judge or magistrate, in addition to any other penalty,

- (a) may order the employer to pay to the aggrieved person compensation for loss of employment not exceeding such sum as in the opinion of the judge or magistrate is equivalent to the wages, salary or remuneration that would have accrued to that person up to the date of conviction but for such violation of section 3, and

(b) may order the employer to reinstate the aggrieved person in his employ at such date as in the opinion of the judge or magistrate is just and proper under the circumstances in the position that person would have held but for such violation of section 3.

11. A prosecution for an offence under this Act may be instituted against a trade union or employers' organization in the name of the 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 union or organization shall be deemed to be an act or thing done or omitted by the union or organization.

12. The Lieutenant-Governor in Council may prescribe such remuneration as he sees fit for the services and expenses of each member of the commission appointed under section 5.

13. This Act comes into force on a day to be fixed by Proclamation.