

## CHAPTER 13

## HUMAN RIGHTS ACT

Assented to May 19, 1967.

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

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 New Brunswick Human Rights Commission;
  - (c) "employers' organization" means an organization of employers formed for purposes that include the regulation of relations between employers and employees;
  - (d) "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;
  - (e) "establishment" means a place of business or the place where an undertaking or a part thereof is carried on;
  - (f) "Minister" means the Minister of Labour and includes anyone designated by the Minister to act on his behalf;
  - (g) "national origin" includes nationality and ancestry;
  - (h) "pay" means remuneration in any form;
  - (i) "person", in addition to the extended meaning given by the *Interpretation Act*, includes an employment agency, an employers' organization and a trade union; and
  - (j) "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; nor
- (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.

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.

(6) No person shall deny to any person or class of persons the accommodation, services or facilities, available in any place to which the public is customarily admitted only because of the race, creed, colour, nationality, ancestry or place of origin of such person or class of persons.

(7) No person shall,

(a) publish or display or cause to be published or displayed; or

(b) permit to be published or displayed on lands or premises or in a newspaper, through a radio broadcasting or television station or by means of any other medium which he owns or controls;

any notice, sign, symbol, emblem or other representation indicating discrimination or an intention to discriminate against any person or any class of persons for any purpose because of the race, creed, colour, nationality, ancestry or place of origin of such person or class of persons.

(8) Nothing in this section shall be deemed to interfere with the free expression of opinions upon any subject by speech or in writing and shall not confer any protection to or benefit upon enemy aliens.

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, colour, nationality, ancestry or place of origin.

(2) No trade union shall exclude from membership or expel or suspend any person or member or discriminate against any person or member because of race, creed, colour, nationality, ancestry, or place of origin.

5. (1) There shall be a Commission to be known as New Brunswick Human Rights Commission.

(2) The Commission shall be composed of three or more members as may be fixed from time to time by the Lieutenant-Governor in Council.

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

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

(5) The Lieutenant-Governor in Council may fix the remuneration of the members of the Commission.

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

7. 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, colour, nationality, ancestry or place of origin;

(b) to promote an understanding of, acceptance of and compliance with this Act; and

(c) to develop and conduct educational programmes designed to eliminate discriminatory practices related to race, creed, colour, nationality, ancestry or place of origin.

8. The Lieutenant-Governor in Council may appoint a secretary and such other officers, clerks and servants of the Commission as are deemed appropriate.

9. The cost of the administration of this Act is payable out of the Consolidated Fund.

10. The Lieutenant-Governor in Council may make regulations respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

11. Any person claiming to be aggrieved because of an alleged violation of this Act may make a complaint in writing to the Commission in a form prescribed by the Commission.

12. The Commission itself or through any person designated so to do may inquire into the complaint of any person that he has been discriminated against contrary to this Act and it shall endeavour to effect a settlement of the matter complained of.

13. (1) If the Commission is unable to effect a settlement of the matter complained of, the Minister may on the recommendation of the Commission appoint a board of inquiry composed of one or more persons to investigate the matter and shall forthwith communicate the names of the members of the board to the parties to the complaint, and thereupon it shall be presumed conclusively that the board was appointed in accordance with this Act.

(2) The board has all the powers of a conciliation board under the *Labour Relations Act*.

(3) The board shall give the parties full opportunity to present evidence and to make submissions and, if it finds that

the complaint is supported by the evidence, it shall recommend to the Commission the course that ought to be taken with respect to the complaint.

(4) If the board is composed of more than one person, the recommendations of the majority are the recommendations of the board.

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

(6) The Minister, on the recommendation of the Commission, may issue whatever order he deems necessary to carry the recommendations of the board into effect, and such order is final and shall be complied with in accordance with its terms.

(7) The Lieutenant-Governor in Council may determine the rate of remuneration of the chairman and members of the boards of inquiry appointed under this section.

14. (1) Upon receipt of the recommendations of the board of inquiry, the Commission

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

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

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

(2) Every person in respect of whom an order is made under clause (c) of subsection (1) shall comply therewith.

15. When the board makes its recommendations to the Commission, it may recommend that the course of action include reinstatement, with or without compensation for loss of employment.

16. 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 one hundred dollars; or

(b) if a corporation, trade union, employers' organization or employment agency, to a penalty of not more than five hundred dollars.

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

18. Where an employer is convicted for a violation of section 3, the convicting judge, 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 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 is just and proper under the circumstances in the position that person would have held but for such violation of section 3.

19. 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 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.

20. (1) Where a person has been convicted of a violation of this Act the Minister may apply by way of originating summons to a judge of the Supreme Court for an order enjoining such person from continuing such violation.

(2) The judge in his discretion may make such order and the order may be enforced in the same manner as any other order or judgement of the Supreme Court.

21. The *Fair Employment Practices Act* and the *Fair Accommodation Practices Act* are repealed.

22. This Act or any section thereof comes into force on a day to be fixed by proclamation.