

AN ACT TO ESTABLISH THE NEWFOUNDLAND HUMAN  
RIGHTS CODE AND TO PROVIDE FOR  
ITS IMPLEMENTATION.

(May 13, 1969)

WHEREAS recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world;

AND WHEREAS disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people;

AND WHEREAS it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law;

AND WHEREAS this Legislature, believing implicitly in the Universal Declaration of Human Rights as proclaimed by the United Nations, desires to reaffirm its faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and has determined to promote social progress and better standards of life in larger freedom:

*BE IT THEREFORE enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:*

1. This Act may be cited as The Newfoundland Human Rights Code, 1969. Short title.

*Interpretation*

## Interpretation.

**2.** 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 a Human Rights Commission appointed under Section 16;
- (c) "Director" means the Director appointed under Section 13;
- (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 for employers and a person who undertakes with or without compensation to procure employment for persons;
- (f) "establishment" means a place of business or the place where an undertaking or a part thereof is carried on;
- (g) "Minister" means the Minister of Labour;
- (h) "pay" means remuneration in any form;
- (i) "person", in addition to its meaning in The Interpretation Act, includes an employment agency, trade union and employers' organization;

ined dwelling unit” means a dwelling house, t or other similar place of residence that is occupied or is intended, arranged or designed d or occupied as separate accommodation for and eating; and

ion” means an organization of employees or purposes that include the regulation of re- tween employees and employers.

*Application and Administration*

itions contained in this Act apply to and bind ght of the province and every agency of Her of the province.

Crown bound by this Act.

urpose and intent of this Act is to regulate mat- ompetence of the Legislature of the province, this Act shall be construed to affect or regulate h is not subject to the legislative authority of ure.

Interpretation.

all be construed and interpreted so as to ensure thereof shall prejudicially affect any right or ect to denominational schools, common (amal- or denominational colleges, that any class or had by law in the province at the date of indland with Canada, or any such right or r by law acquired by the Pentecostal Assem- land.

Idem.

sion of any statute or law or agreement now ted or made whereby preference is given, or n, to

Idem.

dland labour or workmen whose place of resi- usual place of residence, or ordinary place of is Newfoundland; or

equipment or any other thing produced, orig- manufactured or distributed and serviced in land

shall have full force and effect notwithstanding any of the other provisions of this Act, and nothing contained in this Act shall be construed as in any way

- (c) restricting the force and effect of any statute or law or agreement now or hereafter enacted or made; or
- (d) preventing the enactment or making hereafter of any statute or law or agreement

respecting the giving of any such preference.

Administra-  
tion.

**5.** Subject to Section 13, the Minister is charged with the administration of this Act.

Application  
of Act.

**6.** Subject to Sections 23 and 31, nothing in this Act shall be construed as enlarging or restricting, or otherwise altering the force and effect of, any provision in any other Act.

#### *Fair Accommodation Practices*

Right to  
admission to  
places of  
public  
accommodation.

**7.** No person shall deny to any person or class of persons admission to or enjoyment of the accommodation, services or facilities available in any place to which the public is customarily admitted by reason only of the race, religion, religious creed, political opinion, colour or ethnic, national or social origin of such person or class of persons.

Right to  
occupy  
commercial  
and dwelling  
units.

**8.** 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 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

by reason only of the race, religion, religious creed, political opinion, colour or ethnic, national or social origin of such person or class of persons or of any other person or class of persons.

*Fair Employment Practices*

**9.—(1)** No employer, or person acting on behalf of an 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 employment because of

Discrimination  
in employment.

- (a) that person's race, religion, religious creed, sex, political opinion, colour or ethnic, national or social origin;  
or
- (b) subject to subsection (5), that person's age if that person has attained the age of forty-five years and has not attained the age of sixty-five years,

but discrimination because of sex, where based on a *bona fide* occupational qualification, does not constitute a failure to comply with this subsection.

(2) No employer, or person acting on behalf of an employer, shall use, in the hiring or recruitment of persons for employment, an employment agency that discriminates against persons seeking employment because of their race, religion, religious creed, political opinion, colour or ethnic, national or social origin.

Discrimination  
by employment  
agency.

(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

Discrimination  
by trade union.

- (a) that person's race, religion, religious creed, sex, political opinion, colour or ethnic, national or social origin;  
or
- (b) subject to subsection (5), that person's age, if that person has attained the age of forty-five years and has not attained the age of sixty-five years.

(4) 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

Forms of  
application  
and advertise-  
ment concerning  
employment.

oral inquiry in connection with employment that expresses either directly or indirectly

(a) any limitation, specification or preference as to race, religion, religious creed, political opinion, colour or ethnic, national or social origin; or

(b) subject to subsection (5), any intent to

(i) dismiss from employment,

(ii) refuse to employ or rehire, or

(iii) discriminate against

any person because of age, if that person has attained the age of forty-five years and has not attained the age of sixty-five years,

but this subsection does not apply to the expression of a limitation, specification or preference based on a *bona fide* occupational qualification.

Saving.

(5) The provisions of subsections (1), (3) and (4) as to age shall not apply to

(a) termination of employment because of the terms or conditions of any *bona fide* retirement or pension plan;

(b) operation of the terms or conditions of any *bona fide* retirement or pension plan which have the effect of a minimum service requirement; or

(c) operation of the terms or conditions of any *bona fide* group or employee insurance plan.

Exceptions.

(6) This section does not apply to an employer

(a) which is an exclusively charitable, religious, philanthropic, educational, fraternal or social organization that is not operated for private profit;

(b) which is any organization that is operated primarily to foster the welfare of a religious or ethnic group and that is not operated for private profit;

(c) which is

(i) a Board of Directors of a college or a School Board or an Amalgamated School Board or a Consolidated School Board constituted by or under The Education Act, 1960,

(ii) a Board of Directors of a college, a Board of Education, a common board, committee or other governing body existing by virtue of Section 4 of The Education Act, 1960,

(iii) a Denominational Educational Committee established under The Department of Education Act, 1968, or

(iv) such other bodies as may be specified by order of the Lieutenant-Governor in Council if the Lieutenant-Governor in Council is of the opinion that, in the light of

(A) Term 17 of The Terms of Union of Newfoundland with Canada set forth in the Schedule to the British North America Act, 1949, or

(B) any Act of the province now or hereafter enacted respecting matters of or related to education.

such bodies should be so specified; or

(d) in respect of the employment of

(i) a domestic in a private home,

(ii) Superintendents and Assistant Superintendents of Education under The Department of Education

Act, chapter 13 of *The Revised Statutes of Newfoundland, 1952,*

- (iii) *Supervising Inspectors under The Education Act, 1960,*
- (iv) *Executive Secretaries of Denominational Educational Committees referred to in subparagraph (iii) of paragraph (c) of this subsection (6), or*
- (v) *such other persons as may be specified by order of the Lieutenant-Governor in Council if the Lieutenant-Governor in Council is of the opinion that, in the light of*
  - (A) *Term 17 of The Terms of Union of Newfoundland with Canada set forth in the Schedule to the British North America Act, 1949, or*
  - (B) *any Act of the province now or hereafter enacted respecting matters of or related to education,*

*such persons should be so specified.*

#### *Equal Pay*

Pay for female employees.

**10.**—(1) No employer, and no person acting on his behalf, shall pay a female employee at a rate of pay less than the rate of pay paid to a male employee employed by him for the same work done in the same establishment.

Item

(2) A difference in the rate of pay between a female and a male employee based on any factor other than sex that would normally justify such difference shall not constitute a failure to comply with this section.

#### *Discriminatory Publications*

Discriminatory publications.

**11.**—(1) 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 or television broadcasting 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, religion, religious creed, political opinion, colour or ethnic, national or social origin of such person or class of persons.

(2) Nothing in this section shall be deemed to interfere with the free expression of opinions upon any subject by speech or in writing.

Freedom of speech preserved.

#### *Protection of Complainants and Others*

**12.** No person, employer or trade union shall evict, discharge, suspend, 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.

Protection of complainants, witnesses and others.

#### *Administration and Enforcement*

**13.—(1)** The Lieutenant-Governor in Council shall appoint to the staff of the Department of Labour, to hold office during pleasure, a Director for the purpose of this Act.

Appointment of Director.

(2) The Director has, subject to the Minister, power to administer this Act and, without limiting the generality of the foregoing, it is the function of the Director to

Power and duties of Director.

- (a) forward the principle that every person is equal in dignity and rights without regard to race, religion, religious creed, sex, political opinion, colour or ethnic, national or social origin;
- (b) promote an understanding of, acceptance of and compliance with this Act; and

- (c) develop and conduct educational programs designed to eliminate discriminatory practices relating to race, religion, religious creed, sex, political opinion, colour or ethnic, national or social origin.

Application of subsection (2) of Section 17.

(3) Subsection (2) of Section 17 applies to the Director.

Complaint in writing to Minister.

**14.** Subject to Section 24, when a person claiming to be aggrieved by an alleged violation of this Act makes a complaint in writing to the Minister on a form prescribed by the regulations, the Minister may designate the Director or another official of the Department of Labour to enquire into the complaint and endeavour to effect a settlement of the matter complained of, and different officials may be designated in respect of different complaints.

Report to Minister where no settlement.

**15.** If the Director or other official designated by the Minister under Section 14 is unable to effect a settlement of the matters complained of, he shall so report to the Minister.

Appointment of Commission.

**16.—(1) If**

- (a) the Director or other official designated under Section 14 is unable to effect a settlement of the matters complained of; or
- (b) the Minister deems it desirable to have an enquiry made into any matter whatsoever coming within the purview of this Act,

the Minister may refer the matter to a Commission, consisting of one or more persons to be appointed by the Minister and to be known as a Human Rights Commission, for investigation with a view to settlement of the matter.

Chairman.

(2) If more persons than one are appointed to a Commission, the Minister may designate one member as chairman.

Vacancies.

(3) The Minister may fill any vacancy in the membership of a Commission.

(4) The Minister may provide any Commission with a secretary and such clerical or other assistance as the Minister deems necessary and any staff so provided shall be paid such remuneration as may be fixed by the Lieutenant-Governor in Council.

Staff.

(5) The chairman and the other members of every Commission shall be paid such remuneration as may be fixed by the Lieutenant-Governor in Council and such actual and reasonable expenses as are incurred by them in the discharge of their duties.

Remuneration  
of Commission.

(6) Every 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 considers fit.

Procedure.

**17.**—(1) Every Commission and each member thereof shall have and may exercise all of the powers that may be conferred upon a Commissioner under The Public Enquiries Act, including, without limiting the generality of the foregoing, the power to subpoena witnesses and to require such witnesses to give evidence orally or in writing upon oath or upon solemn affirmation and to produce such documents and things as the Commission may deem requisite to the full investigation of the matters referred to it.

Powers of  
Commission to  
subpoena  
witnesses.

(2) Any Commission, any person thereunto authorized in writing by a Commission, the Director and any person appointed or designated under Section 28 may, from time to time and at all reasonable times, enter any building, factory, workshop or other premises or place in the province

Inspection.

- (a) to determine whether this Act and the regulations and any order made under this Act or the regulations are being and have been complied with;
- (b) to inspect, audit and examine books of account, records and documents; or
- (c) to inspect and view any work, material, machinery, appliance or article therein.

and the persons occupying or in charge of such building, factory, workshop, premises or place shall

(d) answer all questions pertaining to those matters put to them; and

(e) produce for inspection such books of account, records, documents, material, machinery, appliance or article requested

by any person empowered by or under this subsection to enter such building, factory, workshop, premises or place.

Functions of Commission.

**18.**—(1) As soon as it is appointed, every Commission shall enquire into the matters referred to it and shall give full opportunity to all parties to present evidence and make representations, and, when the Commission has completed its enquiry, it shall recommend to the Minister the course that should be taken with respect to the matters referred to it.

Majority report.

(2) If the Commission is composed of three or more persons, any recommendation of the majority constitutes a recommendation of the Commission.

Further report by Commission.

**19.**—(1) When a Commission has made its recommendations, the Minister may request it to clarify or amplify them or to reconsider all or any part thereof or to do all or any of such things, and, until the Commission has complied with such request, he may defer any action under Section 20.

Amendments.

(2) Every Commission to whom a request has been made pursuant to subsection (1) may make such amendments, as it deems fit, to such of its recommendations as the Minister has, pursuant to that subsection, requested it to reconsider.

Publication of Commission's recommendations.

**20.** When the Minister receives the recommendations of a Commission, he shall furnish a copy thereof to each of the persons affected thereby, and, if he considers it desirable, he shall publish such recommendations in such other manner as he considers advisable.

Minister's order.

**21.**—(1) The Minister may issue whatever order he considers necessary to carry out the recommendations of the Commission.

Effect of order.

(2) Every person affected by an order made under subsection (1) shall comply with the order.

**22.** The Minister may, where he deems it expedient, undertake or cause to be undertaken such enquiries and other measures as appear advisable to him to promote the purposes of this Act and may use such means therefor as he considers desirable.

Enquiries.

**23.—(1)** Every person who

Offence.

(a) does anything prohibited by; or

(b) refuses or neglects to do anything required by

this Act, the regulations or any order made under this Act or the regulations, or who

(c) makes a false statement in answer to any question put to him under this Act; or

(d) otherwise contravenes or fails to comply with this Act, the regulations or any order made under this Act or the regulations,

is guilty of an offence and liable on summary conviction,

(e) if a natural person, to a fine not exceeding one hundred dollars; or

(f) if a trade union, employers' organization, employment agency or any person other than a natural person, to a fine not exceeding five hundred dollars.

(2) Where an employer is convicted of an offence under this Act, by reason of his having suspended, transferred, laid off or discharged an employee contrary to this Act, any magistrate may after due consideration has been given by the magistrate to all circumstances of the case, including, without limitation of the foregoing, any wages, salary or remuneration earned with another employer by such employee) in addition to imposing a fine under subsection (1), order the employer

Compensation.

a) to pay compensation for loss of employment to the employee, not exceeding the sum as in the opinion of the magistrate is equivalent to the wages, salary or re-

muneration that would have accrued to the employee up to the date of conviction, but for such suspension, transfer, layoff or discharge, and such provision of the order shall be enforceable against the employer in the same manner as a judgment of the magistrate in a civil action; and

- (b) to reinstate the employee in his employ, at such date as in the opinion of the magistrate is just and proper under the circumstances, in the position the employee would have held but for such suspension, transfer, lay-off or discharge.

**Underpayment.**

(3) Where an employer is convicted of an offence under this Act, by reason of his having underpaid an employee contrary to this Act, any magistrate shall, in addition to imposing a fine under subsection (1), order the employer to pay to the employee any outstanding difference between the wages actually paid to the employee and the wages which are in the opinion of the magistrate payable according to this Act and such order shall be enforceable against the employer in the same manner as a judgment of the magistrate in a civil action, but the right of an employee to take any other proceeding for recovery of the amount of wages to which he is entitled according to this Act is not barred except by satisfaction of that amount, and Section 74 of The Summary Jurisdiction Act shall not, except with the written consent of the Minister of Justice, be applied in disposing of a prosecution for an offence referred to in this subsection.

**Jurisdiction of  
magistrate.**

(4) For the purposes of subsection (2) or (3), any magistrate has jurisdiction to make any order referred to in that subsection, notwithstanding the amount of money involved.

**Continuing  
offence.**

(5) A conviction in accordance with subsection (1) does not operate as a bar to further prosecution or prosecutions for the continued contravention or failure to comply in accordance with subsection (1), and, where there is a continuing such contravention or failure to comply, each day's continuance constitutes a separate offence.

**24.** Subject to Section 30, nothing in this Act restricts the right of any aggrieved person to initiate proceedings or to lay a complaint before a court of summary jurisdiction for an alleged contravention of or failure to comply with this Act, but, if any such complaint is laid, then the remedies provided by Sections 14 to 21 shall not be applied in respect of that complaint.

Respecting  
complaints  
before courts  
of summary  
jurisdiction.

**25.—(1)** Where a person has been convicted of any offence under this Act, the Minister may apply to a Judge of the Supreme Court of Newfoundland for an order enjoining the person so convicted from continuing the offence.

Injunction.

(2) The Judge may make such order as he deems fit, and the order may be entered and enforced in the same manner as any other order or judgment of the Supreme Court of Newfoundland.

Order.

**26.** A prosecution for an offence under this Act may be brought against an employers' organization or a trade union in the name of such organization or trade union, and any act or thing done or omitted by an officer, official or agent of an employers' organization or trade union within the scope of his authority to act on behalf of the employers' organization or trade union shall be deemed to be an act or thing done or omitted by the employers' organization or trade union as well as being the personal act or omission of that officer, official or agent.

Prosecution  
of employers'  
organization  
or trade  
union.

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

Technical  
defect.

**28.—(1)** The Minister may appoint or designate such inspectors, officers and other persons as he may deem necessary for the proper carrying out of this Act and the regulations.

Appointment  
of inspectors.

(2) Subsection (2) of Section 17 applies to any inspector, officer or other person appointed or designated under subsection (1) of this Section 28.

Application  
of subsection  
(2) of Section  
17.

### *Regulations*

**29.—(1)** The Lieutenant-Governor in Council may make such regulations not inconsistent with this Act as he deems advisable for the more effective carrying out of its purposes according

Regulations.

to its true spirit, intent and meaning and for dealing with any matters for which no express provision has been made or in respect of which only partial or imperfect provision has been made, and in particular, but without limitation of the foregoing, may make regulations

- (a) prescribing forms, returns, statements and other documents to be used, made or furnished by employers and other persons, the information to be given in such forms, returns, statements and other documents, and by whom and in what language and manner and at what time or times they shall be made or furnished;
- (b) prescribing books, accounts and records to be kept and maintained by employers and other persons, the language and manner in which such books, accounts and records are to be kept and prescribing periods of preservation of such books, accounts and records;
- (c) prescribing the duties of inspectors, officers and other persons appointed or designated under this Act; and
- (d) respecting any other matter or thing not specifically mentioned in this subsection, where in the opinion of the Lieutenant-Governor in Council such provision is required to give effect to and carry out the objects of this Act.

Regulations  
may be  
limited.

(2) Any regulations made under this section may be limited as to time or place or both.

Publication.

(3) Regulations made under this Act shall be published in *The Newfoundland Gazette* and shall have effect from the date of such publication or from such later date as may be stated in the regulations, and the regulations shall be laid before the Legislature within fifteen days after they are made, if the Legislature is then in session, and, if it is not, then within fifteen days after the commencement of the next ensuing session.

#### *Prosecutions*

Consent to  
prosecute.

**30.** No prosecution for an offence under this Act shall be commenced except with the consent in writing of the Minister.



**31.** Where the Minister defers his consent to the commencement of a prosecution for any offence under this Act, because the matter is then being dealt with under any of the provisions of Sections 14 to 21, the time during which the Minister's consent was deferred for that reason shall not be counted for the purposes of any provision of The Summary Jurisdiction Act or of any other Act limiting the time for making a complaint, laying an information or commencing any prosecution or other proceeding.

Time does not run where Minister defers his consent.

### *Appeal*

**32.—(1)** When any person is dissatisfied with an order of the Minister made under Section 21, he may appeal therefrom to a Judge of the Supreme Court of Newfoundland.

Appeal.

(2) If a person proposes to appeal under subsection (1), he shall, within thirty days after the order of the Minister from which he proposes to appeal, serve on the Minister a written notice of his intention to appeal.

Service of notice.

(3) Every notice of appeal served under subsection (2) shall be signed by the appellant or by his solicitor or agent, and, in the notice, the grounds of the appeal shall be set forth, and the appellant shall file a copy of the notice in the office of the Registrar of the Supreme Court of Newfoundland.

Notice to set forth grounds of appeal.

(4) The appellant shall, not less than fourteen days before the hearing of the appeal, serve upon the Minister a written notice of the day appointed for the hearing.

Appointment of day for hearing.

(5) The Judge shall hear the appeal and the evidence adduced before him by the appellant and Her Majesty in a summary manner and shall decide the matter of the appeal.

Judge to hear appeal.

(6) The Minister shall cause to be produced before the Judge on the hearing of the appeal all papers and documents in his possession affecting the matter of the appeal.

Papers, etc., to be produced by Minister.

(7) The costs of the appeal are in the discretion of the Judge, and he may make an order respecting them in favour of or against Her Majesty and may fix the amount thereof.

Costs.

*Coming into Force*

Date of coming  
into force.

**33.** This Act or any part thereof shall come into force on a day to be proclaimed by the Lieutenant-Governor in Council.

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