

2. the accessions referred to in Article 38;
3. the date on which the Convention enters into force in accordance with Article 43;
4. the extensions referred to in Article 39;
5. the declarations referred to in Articles 38 and 40;
6. the reservations referred to in Article 24 and Article 26, third paragraph, and the withdrawals referred to in Article 42;
7. the denunciations referred to in Article 44.

Done at The Hague on the 25th day of October, 1980.

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## CHAPTER 62

### AN ACT RESPECTING THE PROTECTION OF HUMAN RIGHTS

(Assented to July 8, 1988)

#### *Analysis*

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*Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:*

*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 human beings are 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:

Short title                    1.    This Act may be cited as *The Human Rights Code, 1988*.

#### INTERPRETATION

- Definitions                2.    In this Act
- (a) "commercial unit" means a building or other structure or part of one 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 a 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 a building or other structure or in a part of one;
  - (b) "Commission" means the Human Rights Commission appointed under section 17;
  - (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 of an undertaking is carried on;
  - (f) "Executive Director" means the Executive Director appointed under section 18;
  - (g) "harass" means to engage in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome;
  - (h) "mental disability" means
    - (i) a condition of mental retardation or impairment,
    - (ii) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language, or
    - (iii) a mental disorder;
  - (i) "Minister" means the Minister of Justice;
  - (j) "pay" means remuneration in any form;
  - (k) "person", in addition to its meaning in *The Interpretation Act*, includes an employment agency, a trade union and an employers' organization;
  - (l) "physical disability" means any degree of infirmity, malformation or disfigurement of the body suffered by a person as a result of injury, illness or birth defect, and includes a handicap resulting from epilepsy, paralysis, lack of co-ordination, amputation, blindness, deafness, muteness or reliance upon a dog guide, a wheelchair, a cane or crutch or other remedial appliance or device;
  - (m) "self contained dwelling unit" means a dwelling house, apartment or other similar place of residence that is used or occupied or is intended, arranged or designed to be used or occupied as separate accommodation for sleeping and eating; and
  - (n) "trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers.

## APPLICATION AND ADMINISTRATION

- Crown bound**            3.    The prohibitions contained in this Act apply to and bind the Crown and every agency of the Crown.
- Interpretation**        4.    (1) The purpose and intent of this Act is to regulate matters within the competence of the Legislature of the province and nothing in this Act shall be construed to affect or regulate a matter which is not subject to the legislative authority of the Legislature.
- (2) This Act shall be construed and interpreted so as to ensure that no provisions of it shall prejudicially affect a right or privilege with respect to denominational schools, common (amalgamated) schools, or denominational colleges, that a class of persons had by law in the province at the date of Union of Newfoundland with Canada, or any such right or privilege hereafter by law acquired by the Pentecostal Assemblies of Newfoundland.
- (3) A provision of a statute or law or agreement now or hereafter enacted or made whereby preference is given, or agreed to be given, to
- (a) workers whose place of residence or usual place of residence, or ordinary place of residence, is the province; and
- (b) material, equipment or any other thing produced, originating, manufactured or distributed and serviced in the province
- shall have full force and effect notwithstanding the provisions of this Act, and nothing in this Act shall be construed as
- (c) restricting the force and effect of a statute or law or agreement now or hereafter enacted or made; or
- (d) preventing the enactment or making hereafter of a statute or law or agreement
- respecting the giving of that preference.
- Administration**        5.    Subject to section 17, the Minister is charged with the administration of this Act.
- Application of Act**     6.    *The Newfoundland Human Rights Code* shall take precedence over other legislation where other legislation conflicts with the Code.

#### FAIR ACCOMMODATION PRACTICES

Right to admission to public places

7. (1) No person shall deny to a person or class of persons admission to or enjoyment of the accommodation, services or facilities available in a 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, sex, marital status, physical disability or mental disability of that person or class of persons.

(2) Notwithstanding subsection (1), a limitation, specification, exclusion, denial or preference because of physical disability or mental disability shall be permitted if that limitation, specification, exclusion, denial or preference is based upon a *bona fide* qualification as determined by the Commission.

Right to occupy commercial and dwelling units

8. (1) No person, directly or indirectly, alone or with another, by himself or herself or by the interposition of another, shall

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

by reason only of the race, religion, religious creed, political opinion, colour or ethnic, national or social origin, sex, marital status, physical disability or mental disability of that person or class of persons.

(2) Notwithstanding subsection (1), a limitation, specification, exclusion, denial or preference because of physical or mental disability shall be permitted if that limitation, specification, exclusion, denial or preference is based upon a *bona fide* qualification as determined by the Commission.

Harassment of occupant prohibited

9. No person, directly or indirectly, alone or with another, by himself or herself only or by the interposition of another shall harass a person or class of persons who is an occupant of a commercial unit or a self-contained dwelling unit because of the race, religion, religious creed, political opinion, colour or ethnic, national or social origin, sex, marital status, physical disability or mental disability of that person or class of persons.

#### FAIR EMPLOYMENT PRACTICES

Discrimination in employment

10. (1) No employer, or person acting on behalf of an employer, shall refuse to employ or to continue to employ or otherwise discriminate

against a person in regard to employment or a term or condition of employment because of

- (a) that person's race, religion, religious creed, political opinion, colour or ethnic, national or social origin, sex, marital status, physical disability or mental disability; or
- (b) subject to subsection (5), that person's age, if that person has attained the age of nineteen 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.

(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, sex, marital status, physical disability or mental disability.

(3) No trade union shall exclude a person from full membership or expel or suspend or otherwise discriminate against one of its members or discriminate against a person in regard to his or her employment by an employer, because of

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

(4) No person shall use or circulate a form of application for employment or publish an advertisement in connection with employment or prospective employment or make a written or oral inquiry in connection with employment that expresses either directly or indirectly

- (a) a limitation, specification or preference as to race, religion, religious creed, political opinion, colour or ethnic, national or social origin, sex, marital status, physical disability or mental disability; or
- (b) subject to subsection (5) an intent to

- (i) dismiss from employment,
- (ii) refuse to employ or rehire, or
- (iii) discriminate against

a person because of age, if that person has attained the age of nineteen 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 *bona fide* occupational qualification.

(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 a *bona fide* retirement or pension plan;
  - (b) operation of the terms or conditions of a *bona fide* retirement or pension plan which have the effect of a minimum service requirement; or
  - (c) operation of the terms or conditions of a *bona fide* group or employee insurance plan.
- (6) This section does not apply to an employer
- (a) which is an exclusively religious or fraternal organization that is not operated for private profit; or
  - (b) in respect of the employment of a domestic employed and living in a single-family home.

Discrimination  
re: attachment  
of wages, etc.

11. (1) No employer, or persons acting on behalf of an employer, shall refuse to employ or to continue to employ or otherwise discriminate against a person in regard to employment or a term or condition of employment because of that person's pay

- (a) from any other or previous employer having been; or
- (b) from him or her or another employer being or becoming

subject to

- (c) attachment or seizure in satisfaction of a claim against; or
- (d) alienation, assignment or transfer by

that person, but discrimination based on a *bona fide* occupational qualification with respect to persons whose duties include the collecting,



receiving or depositing of money belonging to the employer 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 for a reason that would be, in regard to an employer or person acting on behalf of an employer, discrimination under subsection (1).

(3) No trade union shall exclude a person from full membership or expel or suspend or otherwise discriminate against one of its members or discriminate against a person in regard to his or her employment by an employer for a reason that would be, in regard to an employer or a person acting on behalf of an employer, discrimination under subsection (1).

(4) No person shall use or circulate a form of application for employment or publish an advertisement in connection with employment or prospective employment or make a written or oral inquiry in connection with employment that expresses either directly or indirectly

(a) a limitation, specification or preference as to a person; or

(b) an intent to

(i) dismiss from employment,

(ii) refuse to employ or retire, or

(iii) discriminate against

a person

for a reason that would be, in regard to an employer or a person acting on behalf of an employer, discrimination under subsection (1).

(5) This section does not apply to an employer in respect of the employment of a domestic employed and living in a single-family home.

Equal pay for  
same or similar  
work

12. (1) No employer, and no person acting on his or her behalf, shall establish or maintain differences in wages between male and female employees, employed in the same establishment who are performing, under the same or similar working conditions, the same or similar work on jobs requiring the same or similar skill, effort and responsibility, except where that payment is made pursuant to

(a) a seniority system; or

(b) a merit system.

(2) A female employee employed in the same establishment as a male and who is performing under the same or similar working conditions, the same or similar work on jobs requiring the same or similar skill, effort and responsibility shall have

(a) opportunities for training and advancement; and

(b) pension rights and insurance benefits

equal to those applicable to the male.

(3) No employer shall reduce the wages of a male or female employee in order to comply with subsection (1).

Harassment in  
establishment  
prohibited

13. No person in an establishment shall harass another person in the establishment because of the race, religion, religious creed, sex, marital status, physical disability, mental disability, political opinion, colour or ethnic, national or social origin of that person.

Sexual solici-  
tation prohibited

14. (1) No person who is in a position to confer, grant or deny a benefit or advancement to another person shall engage in sexual solicitation or make a sexual advance to that person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome.

(2) No person who is in a position to confer or deny a benefit or advancement to another person shall penalize, punish or threaten reprisal against that person for the rejection of a sexual solicitation or advance.

#### DISCRIMINATORY PUBLICATIONS

Discriminatory  
publications

15. (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 or she runs or controls

a notice, sign, symbol, emblem or other representation indicating discrimination or an intention to discriminate against a person or a class of persons for any purpose because of the race, religion, religious creed, political opinion, colour or ethnic, national or social origin, sex, marital status, physical disability or mental disability of that person or class of persons.

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

**PROTECTION OF COMPLAINANTS**

Protection of  
complainants  
and others

16. No person, employer or trade union shall evict, discharge, suspend, expel or otherwise discriminate against a person because he or she 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.

**HUMAN RIGHTS COMMISSION**

Commission

17. (1) The Human Rights Commission is continued.

(2) The persons appointed pursuant to *The Newfoundland Human Rights Code* continue as members until new members are appointed pursuant to subsection (3).

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

(4) The Lieutenant-Governor in Council shall designate one member as chairperson and another as vice-chairperson.

(5) Subject to subsection (6), each member shall be appointed for a term of five years and shall hold office until his or her successor is appointed and may be reappointed for further terms of five years.

(6) Of the members first appointed after this Act comes into force

(a) one third, as nearly as may be, shall be appointed for a term of three years;

(b) one third, as nearly as may be, shall be appointed for a term of four years; and

(c) the remaining members shall be appointed for a term of five years, and thereafter each member shall be appointed for a term of five years.

(7) The Lieutenant-Governor in Council may fill a vacancy in the membership of the Commission and that person shall be appointed to hold office for the remainder of the term of office of the member being replaced.

(8) The Lieutenant-Governor in Council may determine the remuneration for services and allowances for travelling and other expenses that shall be paid to members.

(9) A quorum of the Commission is a majority of the commissioners or three commissioners, whichever is the lesser.

(10) A decision of a quorum of the Commission is the decision of the Commission and in the event of an equality of votes on a matter, the chairperson or in the absence of the chairperson, the vice-chairperson has a casting vote.

Executive Director

**18.** (1) An Executive Director of the Commission and those officers and employees that are necessary for the purpose of administering this Act may be appointed in the manner established by law.

(2) The Executive Director of the Commission shall

- (a) act as a registrar of complaints received and ensure that complaints are dealt with in accordance with this Act;
- (b) be the chief executive officer and secretary to the Commission; and
- (c) perform the duties and functions prescribed for him or her by this Act, by the Commission or by the regulations.

(3) The Lieutenant-Governor in Council may determine the remuneration for services and allowances for travelling and other expenses that shall be paid to the Executive Director and other officers and employees employed under subsection (1).

Functions of Commission

**19.** The Commission shall

- (a) forward the principle that every person is equal in dignity and rights without regard to race, religion, religious creed, sex, marital status, physical disability, mental disability, political opinion, colour or ethnic, national or social origin;
- (b) promote an understanding of, acceptance of and compliance with this Act;
- (c) disseminate information and develop and conduct educational programmes and research designed to eliminate discriminatory practices related to race, religion, religious creed, sex, marital status, physical disability, mental disability, political opinion, colour or ethnic, national or social origin;
- (d) advise and assist government departments and agencies of the Government and co-ordinate their activities as far as these activities concern human rights;

- (e) advise the Government on suggestions, recommendations and requests made by private organizations, groups and individuals as far as these suggestions, recommendations and requests concern human rights;
- (f) co-operate with and assist any person, organization or group concerned with human rights, whether within or outside the province;
- (g) report as required by the Minister on the business and activities of the Commission; and
- (h) consider, investigate or administer a matter or activity referred to the Commission by the Lieutenant-Governor in Council or the Minister.

Special  
programs

**20.** (1) On the application of a person the Commission may approve programs designed to prevent, reduce or eliminate disadvantages respecting services, facilities, accommodation or employment that may be or are suffered by a group of individuals where those disadvantages would be, or are based on or related to the race, religion, religious creed, sex, marital status, physical disability, mental disability, political opinion, colour or ethnic, national or social origin of members of that group or subject to subsection (5) of section 10, the age of that group.

(2) At any time before or after the Commission approves a program, the Commission may

- (a) make inquiries concerning the program;
- (b) vary the program;
- (c) impose conditions on the program; or
- (d) withdraw approval of the program as it thinks fit.

(3) Nothing done in accordance with a program approved under this section is a violation of the provisions of this Act.

Complaints

**21.** (1) A person who has reasonable grounds for believing that a person has contravened a provision of this Act may file with the Executive Director a complaint in a form acceptable to the Commission.

(2) A complaint made under subsection (1) shall be made within six months after the alleged contravention occurs or, in the case of a continuing contravention, within six months after the last incidence of the alleged contravention.

(3) Where a complaint is made by a person other than the person who it is alleged was dealt with contrary to the provisions of this Act, the Executive Director may refuse to act on the complaint unless the person alleged to be offended against consents.

## Investigation

**22.** (1) Where a complaint is filed with the Executive Director, the Executive Director or a person designated by the Executive Director, shall investigate the complaint and endeavour to effect a settlement of the matter.

(2) Before an investigation is commenced under subsection (1), the Executive Director shall give notice of the complaint and of the commencement of an investigation of the complaint to the person against whom the complaint is made.

(3) Following an investigation, the Executive Director shall make a report to the Commission and the Commission may determine whether or not to refer the matter to a board of inquiry.

(4) Where the Commission declines to refer a complaint to a board of inquiry, the complainant may apply to the Trial Division for an order that the Commission refer the complaint to a board of inquiry.

## Powers of investigation

**23.** (1) The Executive Director and a person appointed or designated by the Executive Director may, at all reasonable times, so long as it is reasonably necessary to determine compliance with this Act enter a building, factory, workshop or other premises or place in the province

(a) to inspect, audit and examine books of account, records and documents; or

(b) to inspect and view any work, material, machinery, appliance or article found there,

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

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

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

by the Executive Director or a person appointed or designated by the Executive Director.

(2) Where the Executive Director or a person appointed or designated by the Executive Director believes on reasonable grounds that a per-

son has contravened a provision of this Act or the regulations, the Executive Director or a person appointed or designated by the Executive Director may with a warrant issued under subsection (3) at any reasonable time enter the building, factory, workshop, premises or place and may investigate, inquire into and examine the affairs of the person in respect of whom the investigation is being made and into books of account, records or documents in relation to that person.

(3) A Provincial Court judge or justice of the peace who is satisfied by information upon oath or affirmation that there are reasonable and probable grounds for believing that there is in a building, factory, workshop, premises or place anything that there are reasonable grounds to believe will afford evidence with respect to an offence under this Act may issue a warrant authorizing the Executive Director or a person appointed or designated by the Executive Director to enter and search those premises and to make those inquiries and copies of books of account, records or documents, that are necessary, subject to those conditions that may be specified in the warrant.

(4) The owner or person in charge of the premises, referred to in this section and every person found there shall give the Executive Director or a person appointed or designated by the Executive Director and named in the warrant all reasonable assistance to enable that person to carry out his or her duties and functions under this section and shall furnish the information as that person may reasonably require.

## Settlement

24. (1) Where the Executive Director, or a person designated by the Executive Director, effects a settlement of a complaint he or she shall report the settlement to the Commission.

(2) Where the report of the Executive Director referred to in subsection (1) is approved by the Commission, the Executive Director shall notify the parties that no further action will be taken with regard to the complaint unless the terms of a settlement are not complied with.

(3) Where the terms of a settlement referred to in subsection (1) or (4) are not complied with, the Commission may reopen the complaint and proceed as if a settlement had not been effected.

(4) A complaint shall be considered settled for the purposes of this Act only if the Commission approves the settlement and agrees to its terms.

Reference to  
board of inquiry

25. Where the Commission refers a matter to a board of inquiry under subsection (3) of section 22 or where a judge of the Trial Division orders

the Commission to refer a matter to a board of inquiry under subsection (4) of section 22, the chairperson of the Commission shall refer the matter to the chief adjudicator of the panel appointed under section 26 who shall hear the matter or refer it to another panel member.

Boards of inquiry

26. (1) The Lieutenant-Governor in Council shall on the recommendation of the Minister appoint a panel of persons to act as members of boards of inquiry.

(2) A panel appointed under subsection (1) shall consist of at least six persons, one of whom shall be appointed by the Lieutenant-Governor in Council as chief adjudicator.

(3) The members of a panel appointed under this section shall not be members of the Commission.

(4) Members of the panel shall be appointed for a term of three years and are eligible for reappointment.

(5) A member of the panel may be removed from the panel at any time by order of the Lieutenant-Governor in Council on recommendation of the Minister if the Minister is satisfied that there is good and sufficient cause for the removal.

(6) The Lieutenant-Governor in Council may determine the rate of remuneration of the members of the panel.

Parties to proceeding

27. (1) The parties to a proceeding before a board of inquiry with respect to a complaint are

- (a) the Commission, which shall have the carriage of the complaint;
- (b) the person named in the complaint as the complainant;
- (c) a person named in the complaint who is alleged to have been dealt with contrary to the provisions of this Act;
- (d) a person named in the complaint who is alleged to have contravened this Act; and
- (e) any other person specified by the board, upon notice, and after that person has been given an opportunity to be heard against his or her joinder as a party.

(2) A true copy of the complaint shall be annexed to the notice of the hearing that is given to a party other than the Commission.



Procedure and powers of board

**28.** (1) A board of inquiry has all the powers of a commissioner appointed under *The Public Enquiries Act*.

(2) A board of inquiry shall inquire into the matters referred to it and give full opportunity to all parties to present evidence and make representations, through counsel or otherwise.

(3) A board of inquiry shall hear a complaint referred to it without undue delay.

Orders of board

**29.** (1) A board of inquiry

(a) shall, if it finds that a complaint is not justified, order that the complaint be dismissed; and

(b) may, if it finds that a complaint is justified in whole or in part, order the person against whom the finding was made to do one or more of the following:

(i) to cease the contravention complained of,

(ii) to refrain in future from committing the same or a similar contravention,

(iii) to make available to the person discriminated against the rights, opportunities or privileges he or she was denied contrary to this Act,

(iv) to provide compensation to the person discriminated against, including compensation for all or a part of wages or income lost or expenses incurred by reason of the discriminatory action, and

(v) to take whatever other action the Board considers appropriate.

(2) A board of inquiry may make whatever order as to costs that it considers appropriate.

(3) An order of a board of inquiry shall be binding on all parties.

(4) An order or decision of a board of inquiry shall be made in writing, together with a written statement of the reasons for the order or decision and copies of them shall be provided to the parties.

Entry of order

**30.** An order made by a board of inquiry may be filed with the Registrar of the Supreme Court and is enforceable in the same manner as an order or a judgment of the Trial Division.

Appeal of  
board decision

31. (1) A party to a proceeding before a board of inquiry may appeal an order or decision of the board by way of application to the Trial Division.

(2) If the grounds of the appeal consist wholly or partly of a question of fact or of mixed fact and law, no appeal shall be made without leave of a judge of the Trial Division.

(3) An application for leave to appeal made under subsection (2) shall be made by way of originating application *ex parte* within thirty days of the receipt by the appellant of the order of the board of inquiry.

(4) A judge may, after taking into consideration any matter that he or she considers appropriate, grant leave to appeal.

(5) An application made under subsection (1) shall be filed with the court within

(a) thirty days of the date leave to appeal was granted, if the appeal is one to which subsection (2) applies; or

(b) thirty days of the date the appellant receives a copy of the order of the board of inquiry, if the appeal is not one to which subsection (2) applies.

(6) An application made under subsection (1) shall be served, together with all affidavits in support, on the board of inquiry and each party to the proceeding before the board at least five days before the return date and the application shall be returnable not later than fifteen days after filing with the court.

(7) The court may confirm, reverse or vary the order of the Board and may make an order that the board may make under section 29.

(8) Commencement of an appeal under this section does not operate as a stay of proceedings of the order of a board of inquiry unless the court orders otherwise.

(9) The Commission shall provide to a judge on the hearing of an appeal all papers and documents in its possession which may affect the matter being appealed.

Privileged information and protection from prosecution

32. (1) A member of the Commission or a person employed in the administration of this Act shall not be required to give evidence or produce records obtained in the course of an investigation under this Act in any proceedings, except

but, if a complaint is laid, then the provisions of sections 21 to 29 shall not be applied in respect of that complaint.

**Injunction**            **36.** (1) Where a person has been convicted of an offence under this Act, the Commission may apply to a judge of the Trial Division for an order enjoining the person so convicted from continuing the offence.

(2) The judge may make whatever order he or she considers fit, and the order may be entered and enforced in the same manner as any other order or judgment of the Trial Division.

**Prosecution**            **37.** A prosecution for an offence under this Act may be brought against an employer's organization or a trade union in the name of that organization or trade union, and an act or thing done or omitted by officer, official or agent of an employers' organization or trade union within the scope of his or her authority to act on behalf of the employer's organization or trade union shall be considered 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.

**Technical defect**        **38.** No proceeding under this Act shall be considered invalid by reason of a defect in form or a technical irregularity.

#### REGULATIONS

**Regulations**            **39.** (1) The Lieutenant-Governor in Council 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 those 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 employees and other persons, the language and manner in which those 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 a matter or thing not specifically mentioned in this subsection, where in the opinion of the Lieutenant-Governor in Council that provision is required to give effect to and carry out the objects of this Act.

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

**REPEAL**

RSN 1970  
c. 262 Rep.

40. (1) *The Newfoundland Human Rights Code* is repealed.

(2) The provisions of *The Newfoundland Human Rights Code* continue to apply with respect to a complaint made under that Act and not concluded, notwithstanding the coming into force of this Act.

**COMMENCEMENT**

Commencement

41. This Act comes into force on October 1, 1988.

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