

AN ACT FURTHER TO AMEND THE NEWFOUNDLAND
HUMAN RIGHTS CODE.

(December 20, 1974)

*Be it 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 (Amendment) Act, 1974. Short title.

2. Section 2 of The Newfoundland Human Rights Code, Chapter 262 of The Revised Statutes of Newfoundland, 1970, is amended by deleting paragraph (b) and substituting therefor the following: Amdt.
Sec. 2.

“(b) “Commission” means

(i) a Human Rights Commission appointed under subsection (1) of Section 13, and

(ii) an *Ad Hoc* Human Rights Commission appointed under subsection (1) of Section 16A;”.

3. Sections 7 and 8 of the said Act are amended by deleting the words “the race, religion, religious creed, political opinion, colour or ethnic, national or social origin” wherever they occur therein and substituting therefor, in each case, the words “the race, religion, religious creed, sex, marital status, political opinion, colour or ethnic, national or social origin”. Amdt. Secs.
7 and 8.

4. Section 9 of the said Act is repealed and the following substituted therefor: Repeal and
substitution
Sec. 9.

“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 Discrimination
in employment.

employment or any term or condition of employment because of

- (a) that person's race, religion, religious creed, sex, marital status, 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 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.

Discrimination
by employment
agency.

(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, sex, marital status, political opinion, colour or ethnic, national or social origin.

Discrimination
by trade union.

(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

- (a) that person's race, religion, religious creed, sex, marital status, 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 nineteen years and has not attained the age of sixty-five years.

Forms of
application
and advertise-
ment concerning
employment.

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

- (a) any limitation, specification or preference as to race, religion, religious creed, sex, marital status, 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 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.

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

- (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

- (6) This section does not apply to an employer Exceptions.
- (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."

5. The said Act is further amended by inserting immediately after Section 9 as Section 9A the following:

Addition
of new
section.

Discrimination in employment arising out of attachment or assignment of pay.

"9A.—(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 that person's pay

(a) from any other or previous employer having been, or

(b) from him or another employer being or becoming subject to

(c) attachment or seizure in satisfaction of any 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.

Discrimination by employment agency.

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

Discrimination by trade union.

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

Forms of application and advertisement concerning employment.

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

- (a) any limitation, specification or preference as to any person; or
- (b) any intent to
 - (i) dismiss from employment,
 - (ii) refuse to employ or rehire, or
 - (iii) discriminate against any person

for any reason that would be, in regard to an employer or 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."

Exception.

6. Section 10 of the said Act is repealed and the following substituted therefor:

Repeal and substitution
Sec. 10.

"10.—(1) No employer, and no person acting on his 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 such payment is made pursuant to

Pay for female employees.

- (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

Other rights for females.

- (a) opportunities for training and advancement, and
- (b) pension rights and insurance benefits

equal to those applicable to the male.

Employer may not reduce wages to comply with subsec. (1).

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

Amdt. Sec. 11.

7. Section 11 of the said Act is amended by deleting the words "race, religion, religious creed, political opinion, colour or ethnic, national or social origin" and substituting therefor, in each case, the words "race, religion, religious creed, sex, marital status, political opinion, colour or ethnic, national or social origin".

Repeal and substitution Secs. 13, 14, 15 and 16.

8. Sections 13, 14, 15 and 16 of the said Act are repealed and the following substituted therefor as Sections 13, 14, 15, 16 and 16A:

Appointment of Commission.

"13.—(1) The Lieutenant-Governor in Council shall appoint a Human Rights Commission for the purposes of this Act.

Composition of 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 and one of the members shall be designated as chairman of the Commission.

Term of office.

(3) Each Commissioner shall hold office for the term prescribed in his appointment and is eligible for reappointment.

Remuneration of Commissioners.

(4) The chairman and other members of the 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.

Vacancies.

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

suant to subsection (1), to hold office during pleasure, a Director for the purposes of this Act and the Director shall

- (a) be the Executive Director and a member of the Commission; and
- (b) perform the duties and functions prescribed for him by this Act, by the Commission, by the Minister or by the regulations.

14. The Commission is, subject to the Minister, charged with the administration of this Act and, without limiting the generality of the foregoing, it is the function of the Commission to

Administration
of Act and
functions of
Commission.

- (a) forward the principle that every person is equal in dignity and rights without regard to race, religion, religious creed, sex, marital status, political opinion, colour or ethnic, national or social origin;
- (b) promote an understanding of, acceptance of and, compliance with this Act;
- (c) develop and conduct educational programmes and research designed to eliminate discriminatory practices relating to race, religion, religious creed, sex, marital status, political opinion, colour or ethnic, national or social origin;
- (d) advise and assist government departments and agencies thereof 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 any matter or activity referred to the Commission by the Lieutenant-Governor in Council or by the Minister.

Complaint
in writing
to Director.

15. 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 Director on a form prescribed by the regulations,

- (a) the Director, or
- (b) an inspector selected by the Director from the inspectors appointed or designated by the Minister under subsection (1) of Section 28

may enquire into the complaint and endeavour to effect a settlement of the matter complained of, and different inspectors may be selected in respect of different complaints.

Report to
Minister
where no
settlement.

16. If the Director or the inspector selected by the Director under Section 15, as the case may be, is unable to affect a settlement of the matters complained of, he shall so report to the chairman of the Commission who in turn shall so report to the Minister and make a recommendation as to whether or not the matter should be referred for further enquiry.

Minister may
refer matter
to Commission
for investigation.

16A.—(1) Where

- (a) the Minister receives the recommendations of the chairman under Section 15, or
- (b) the Minister deems it desirable to have an enquiry made into any matter whatsoever coming within the purview of the Act

the Minister may refer the matter to

- (c) the Human Rights Commission appointed pursuant to subsection (1) of Section 13 or one or more members of that Commission, or

- (d) an *Ad Hoc* Human Rights Commission consisting of one or more persons appointed by the Minister for investigation

with a view to settlement of the matter.

(2) If more persons than one are appointed to an *Ad Hoc* Human Rights Commission, the Minister may designate one member as chairman.

Chairman.

(3) The Minister may provide an *Ad Hoc* Human Rights 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.

(4) The chairman and the other members of every *Ad Hoc* Human Rights 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.

Administration.

(5) 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.

9. Subsection (1) of Section 18 of the said Act is amended by deleting the words "As soon as it is appointed, every Commission shall enquire into the matters referred to it" and substituting therefor the words "Every Commission shall promptly enquire into the matters referred to it".

Amnd.
Sec. 18