

CHAPTER 5

An Act to Prevent Discrimination in Regard to Employment and Membership in Trade Unions by Reason of Race, National Origin, Colour or Religion

(Assented to the 7th day of April, A.D. 1955)

Be it enacted by the Governor and Assembly as follows:

Short title.

1 This Act may be cited as the Fair Employment Practices Act.

Interpretation.

2 In this Act:

(a) "Commission" means an Employment Practices Commission;

(b) "Director" means the officer of the Department of Labour designated by the Minister to receive and deal with complaints under this Act;

(c) "employee" means any person employed by an employer;

(d) "employer" means a person who employs five or more employees, and includes any person acting on behalf of an employer, but does not include an exclusively charitable, philanthropic, educational, fraternal, religious or social organization or corporation that is not operated for private profit, or an organization that is operated primarily to foster the welfare of a religious or racial group and is not operated for private profit;

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

(f) "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;

(g) "Minister" means Minister of Labour;

(h) "person" includes employment agency, trade union and employers' organization;

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

3 (1) No 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 his race, national origin, colour or religion.

Discrimination by employer prohibited.

(2) No 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, national origin, colour or religion.

Engagement of employment agency that discriminates prohibited.

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

Discrimination by trade union prohibited.

(4) No employer or trade union shall discharge, 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.

Discrimination because of complaint prohibited.

Forms of applications or advertisements for employment.

(5) 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 any limitation, specification or preference as to race, national origin, colour or religion.

Complaints.

4 (1) Any person claiming to be aggrieved because of an alleged violation of any of the provisions of this Act may make a complaint in writing to the Director on a form prescribed by the Director, and the Director may instruct an officer of the Department of Labour or any other person to inquire into the complaint.

Inquiry into complaint.

(2) The officer shall forthwith inquire into the complaint and endeavour to effect a settlement of the matters complained of.

Employment Practices Commission.

(3) If the officer is unable to effect a settlement of the matters complained of, the Minister may refer the matters involved in the complaint to a Commission, consisting of one or more persons, to be appointed by the Minister and to be known as an "Employment Practices Commission", for investigation with a view to the settlement of the complaint.

Functions of Commission.

(4) Immediately following its appointment, a Commission shall inquire into the matters referred to it and shall give full opportunity to all parties to present evidence and make representations and, in the case of any matter involved in a complaint in which settlement is not effected in the meantime, if it finds that the complaint is supported, shall recommend to the Minister the course that ought to be taken with respect to the complaint, which may include reinstatement, with or without compensation, for loss of employment.

(5) If the Commission is composed of more than one person, the recommendations of the majority constitute the recommendations of the Commission. Majority report.

(6) After a 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. Further report by Commission.

(7) Upon receipt of the recommendations of a Commission, the Minister shall furnish a copy thereof to each of the persons affected and, if he considers it advisable, shall publish the same in such manner as he considers fit. Distribution of recommendations of Commission.

(8) The Minister may issue whatever order he considers necessary to carry the recommendations of the Commission into effect. Minister's order.

(9) Every person in respect of whom an order is made under this Section shall comply with such order. Effect of order.

(10) A 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, whether admissible in a court or not. Procedure before Commission.

(11) A Commission shall have the power of summoning before it any witnesses and of requiring them to give evidence on oath, or on solemn affirmation, if they are persons entitled to affirm in civil matters, and orally or in writing, and to produce such documents and things as the Commission deems requisite to the full investigation and consideration of the matters referred to it, but the information so obtained from such documents shall not, except as the Commission considers expedient, be made public. Witnesses before Commission.

Idem.

(12) A Commission shall have the same power to enforce the attendance of witnesses and to compel them to give evidence as is vested in any court of record in civil cases.

Inspection of premises and records.

(13) A Commission or any person who has been authorized for such purpose in writing by a Commission may, at any time, enter a building, ship, vessel, factory, workshop, place, or premises of any kind wherein work is being or has been done or commenced by employees or in which an employer carries on business or any matter or thing is taking place or has taken place, concerning the matters referred to the Commission, and may inspect and view any work, material, machinery, appliance or article therein, and interrogate any persons in or upon any such place, matter or thing hereinbefore mentioned; and no person shall hinder or obstruct the Commission or any person authorized as aforesaid in the exercise of a power conferred by this Section or refuse to answer an interrogation made as aforesaid.

Staff of Commission.

(14) The Minister may provide a Commission with a secretary, stenographer, and such clerical or other assistance as to the Minister seems necessary for the performance of its duties and fix their remuneration.

Remuneration of Commissioners.

(15) The chairman and the other members of a Commission shall each be paid such remuneration as the Minister determines and his actual and reasonable travelling expenses for each day he is absent from his place of residence in connection with the work of the Commission.

Other remedies of complainant preserved.

(16) Nothing in this Section restricts the right of any aggrieved person to initiate proceedings under any other provisions of this Act before a court, judge or magistrate against any person for an alleged contravention of this Act.

5 Every person who does anything prohibited ^{Penalties.} by this Act or who refuses or neglects to do anything required by this Act, except where some other penalty is by this Act provided for the act, refusal or neglect, is liable on summary conviction

(a) if an individual, to a fine not exceeding one hundred dollars; and

(b) if a corporation, trade union, employers' organization or employment agency, to a fine not exceeding five hundred dollars.

6 Where an employer is convicted for violation ^{Compensation and reinstatement of employee.} of Section 5 by reason of his having suspended, transferred, laid off or discharged an employee contrary to this Act, the convicting court, judge or magistrate, in addition to any other penalty, may order the employer to pay compensation for loss of employment to the employee not exceeding such sum as in the opinion of the court, judge or magistrate, as the case may be, is equivalent to the wages, salary or remuneration that would have accrued to the employee up to the date of conviction but for such suspension, transfer, lay off or discharge, and may order the employer to reinstate the employee in his employ at such date as in the opinion of the court, judge or magistrate is just and proper in the circumstances in the position the employee would have held but for such suspension, transfer, lay off or discharge.

7 A prosecution for an offence under this Act ^{Proceedings against trade union or employers' organization.} may be brought against an employers' organization or a trade union in the name of the organization or union, and for the purpose of such prosecution an employers' organization or trade union shall be deemed to be a person, and any act or thing done or omitted by an officer or agent of an employers' organization or trade union within the scope of his authority to act on behalf of the organization or trade union shall be deemed to be an act or thing done or omitted by the employers' organization or trade union.

Consent to
prosecution.

8 (1) No prosecution for an offence under this Act shall be instituted without the consent in writing of the Minister.

Formal defects
not to invali-
date proceed-
ings.

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

Additional
powers of
Minister.

9 Where the Minister considers it expedient he may undertake or cause to be undertaken such inquiries and other measures as appear advisable to him to promote the purpose of the Act.

Saving
provisions.

10 Nothing in this Act shall be construed to require a person to employ anyone or to do or refrain from doing any other thing contrary to any instruction, direction or regulation given or made by or on behalf of the Government of Canada in the interests of the safety or security of Canada or any state allied or associated with Canada.

Regulations.

11 The Governor in Council may make regulations to carry out the purposes and provisions of this Act.

Effective date.

12 This Act shall come into force on and not before the first day of January, 1956.

CHAPTER 6

An Act Respecting Embalmers and Funeral Directors

(Assented to the 7th day of April, A.D. 1955)

Be it enacted by the Governor and Assembly as follows:

Short title.

1 This Act may be cited as "Embalmers and Funeral Directors Act".