

**An Act to Amend Chapter 214
of the Revised Statutes, 1989,
the Human Rights Act**

(Assented to the 11th day of July, A.D. 1991)

Be it enacted by the Governor and Assembly as follows:

1 The preamble to Chapter 214 of the Revised Statutes, 1989, the *Human Rights Act*, the headings immediately following Section 2 of said Chapter 214 and Sections 2 to 20 of said Chapter 214 are repealed and the following Sections substituted therefor:

2 The purpose of this Act is to

(a) recognize the inherent dignity and the equal and inalienable rights of all members of the human family;

(b) proclaim a common standard for achievement of basic human rights by all-Nova Scotians;

(c) recognize that human rights must be protected by the rule of law;

(d) affirm the principle that every person is free and equal in dignity and rights;

(e) recognize that the government, all public agencies and all persons in the Province have the responsibility to ensure that every individual in the Province is afforded an equal opportunity to enjoy a full and productive life and that failure to provide equality of opportunity threatens the status of all persons; and

(f) extend the statute law relating to human rights and to provide for its effective administration.

3 In this Act,

(a) "business or trade association" includes an organization of persons that by an enactment, agreement or custom has power to admit, suspend, expel or direct persons in relation to any business or trade;

(b) "Commission" means the Nova Scotia Human Rights Commission;

(c) "Director" means the Director of Human Rights appointed pursuant to this Act;

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

(e) "employer" includes a person who contracts with a person for services to be performed by that person or wholly or partly by another person;

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

(g) "employment agency" includes a person who undertakes, with or without payment, to procure employees for employers and a person who undertakes, with or without payment, to procure employment for persons;

(h) "family status" means the status of being in a parent-child relationship;

(i) "marital status" means the status of being single, engaged to be married, married, separated, divorced, widowed or a man and woman living in the same household as if they were married;

(j) "Minister" means the member of the Executive Council who is charged with the administration of this Act by the Governor in Council;

(k) "person" includes employer, employers' organization, employees' organization, professional association, business or trade association, whether acting directly or indirectly, alone or with another, or by the interposition of another;

(l) "physical disability or mental disability" means an actual or perceived

(i) loss or abnormality of psychological, physiological or anatomical structure or function,

(ii) restriction or lack of ability to perform an activity,

(iii) physical disability, infirmity, malformation or disfigurement, including, but not limited to, epilepsy and any degree of paralysis, amputation, lack of physical coordination, deafness, hardness of hearing or hearing impediment, blindness or visual impediment, speech impairment or impediment or reliance on a hearing-ear dog, a guide dog, a wheelchair or a remedial appliance or device,

(iv) learning disability or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,

(v) condition of being mentally handicapped or impaired,

(vi) mental disorder, or

(vii) previous dependency on drugs or alcohol;

(m) "professional association" includes an organization of persons that by an enactment, agreement or custom has power to admit, suspend, expel or direct persons in the practice of an occupation or calling;

(n) "sex" includes pregnancy, possibility of pregnancy and pregnancy-related illness;

(o) "sexual harassment" means

(i) vexatious sexual conduct or a course of comment that is known or ought reasonably to be known as unwelcome,

(ii) a sexual solicitation or advance made to an individual by another individual where the other individual is in a position to confer a benefit on, or deny a benefit to, the individual to whom the solicitation or advance is made, where the individual who makes the solicitation or advance knows or ought reasonably to know that it is unwelcome, or

(iii) a reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance.

PART I

DISCRIMINATION PROHIBITED

4 For the purpose of this Act, a person discriminates where the person makes a distinction, whether intentional or not, based on a characteristic, or perceived characteristic, referred to in clauses (h) to (v) of subsection (1) of Section 5 that has the effect of imposing burdens, obligations or disadvantages on an individual or a class of individuals not imposed upon others or which withholds or limits access to opportunities, benefits and advantages available to other individuals or classes of individuals in society.

5 (1) No person shall in respect of

(a) the prOVISION of or access to services or facilities;

(b) accommodation;

(c) the purchase or sale of property;

(d) employment;

(e) volunteer public service;

(f) a publication, broadcast or advertisement;

(g) membership in a professional association, business or trade association, employers' organization or employees' organization,

discriminate against an individual or class of individuals on account of 1,

(h) age;

(i) race;

(j) colour;

(k) religion;

(l) creed;

(m) sex;

(n) sexual orientation;

(o) physical disability or mental disability;

(p) an irrational fear of contracting an illness or disease;

(q) ethnic, national or aboriginal origin;

- (r) family status;
- (s) marital status;
- (t) source of income;
- (u) political belief, affiliation or activity;
- (v) that individual's association with another individual or class of individuals having characteristics referred to in clauses (h) to (u).

(2) No person shall sexually harass an individual.

6 Subsection (1) of Section 5 does not apply

(a) in respect of the provision of or access to services or facilities, to the conferring of a benefit on or the providing of a protection to youth or senior citizens;

(b) in respect of accommodation, where the only premises rented consist of one room in a dwelling house the rest of which is occupied by the landlord or the landlord's family and the landlord does not advertise the room for rental by sign, through any news media or listing with any housing, rental or tenants' agency;

(c) in respect of employment, to

(i) a domestic employed and living in a single family home,

(ii) an exclusively religious or ethnic organization or an agency of such an organization that is not operated for private profit and that is operated primarily to foster the welfare of a religious or ethnic group with respect to persons of the same religion or ethnic origin, as the case may be, with respect to a characteristic referred to in

clauses (h) to (v) of subsection (1) of Section 5 if that characteristic is a reasonable occupational qualification, or

(iii) employees engaged by an exclusively religious organization to perform religious duties;

(d) in respect of volunteer public service, to an exclusively religious or ethnic organization that is not operated for private profit and that is operated primarily to foster the welfare of a religious or ethnic group with respect to persons of the same religion or ethnic origin, as the case may be; ,

(e) where the nature and extent of the physical disability or mental disability reasonably precludes performance of a particular employment or activity;

(f) where a denial, refusal or other form of alleged discrimination is

(i) based upon a *bona fide* qualification, or

(ii) a reasonable limit prescribed by law as can be demonstrably justified in a free and democratic society;

(g) to prevent, on account of age, the operation of a *bona fide* retirement or pension plan or the terms or conditions of a *bona fide* group or employee insurance plan;

(h) to preclude a *bona fide* plan, scheme or practice of mandatory retirement; or

(i) to preclude a law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or classes of individuals including those who are disadvantaged because of a characteristic referred to in clauses (h) to (v) of subsection (1) of Section 5.

7 (1) Subject to Section 6, no person shall publish, display or broadcast, or permit to be published, displayed or broadcast, on lands or premises, in a newspaper, by radio or television or by means of any medium, a notice, sign, symbol, implement or other representation indicating discrimination or an intention to discriminate against an individual or class of individuals because of a characteristic referred to in clauses (h) to (v) of subsection (1) of Section 5.

(2) Nothing in this Section is deemed to interfere with the free expression of opinion upon any subject in speech or in writing.

8 (1) No employment agency shall accept an inquiry in connection with employment from an employer or a prospective employee that, directly or indirectly, expresses a limitation, specification or preference or invites information as to a characteristic referred to in clauses (h) to (v) of subsection (1) of Section 5, and no employment agency shall discriminate against an individual on account of such a characteristic.

(2) 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 an inquiry in connection with employment that, directly or indirectly, expresses a limitation, specification or preference or invites information as to a characteristic referred to in clauses (h) to (v) of subsection (1) of Section 5.

(3) The exceptions referred to in Section 6 apply *mutatis mutandis* to subsections (1) and (2).

9 Notwithstanding anything in this Act, the Commission may exempt a program or activity from subsection (1) of Section 5, or a part thereof, where, in the opinion of the Commission, there is a *bona fide* reason to do so.

10 (1) Where, in a regulation made pursuant to an enactment, there is a reference to a characteristic referred to in clauses (h) to (v) of subsection (1) of

Section 5 that appears to restrict the rights or privileges of an individual or a class of individuals to whom the reference applies, the reference and all parts of the regulation dependent on the reference are void and of no legal effect.

(2) This Section does not apply in respect of an exclusively religious or ethnic organization that is not operated for private profit and that is operated primarily to foster the welfare of a religious or ethnic group with respect to persons of the same religion or ethnic origin, as the case may be.

11 No person shall evict, discharge, suspend, expel or otherwise retaliate against any person on account of a complaint or an expressed intention to complain or on account of evidence or assistance given in any way in respect of the initiation, inquiry or prosecution of a complaint or other proceeding under this Act.

2 (1) Subsection (2) of Section 22 of said Chapter 214 is repealed and the following subsection substituted therefor:

(2) The Commission shall consist of not fewer than three nor more than twelve members appointed by the Governor in Council who shall designate one of the members as Chairman of the Commission.

(2) Upon the coming into force of subsection (1), each person who was a member of the Nova Scotia Human Rights Commission ceases to be a member of the Commission.

3 Section 23 of said Chapter 214 is repealed.

4 Section 24 of said Chapter 214 is amended by adding immediately following the Section number thereof the symbols and figure "(1)" and by adding thereto the following subsections:

(2) The Commission shall report in each year to the Minister on the activities of the Commission during the preceding fiscal year ending in that year.

(3) The Minister shall lay the annual report before the Assembly if it is sitting or, if it is not sitting, with fifteen sitting days after it next sits.

5 Said Chapter 214 is further amended by adding immediately following Section 26 thereof the following Section:

26A (1) There is hereby established a division within the Commission to be known as the Race Relations Division under the direction of the Co-ordinator of Race Relations.

(2) The Race Relations Division

(a) shall develop and recommend programs and policies to promote racial harmony and to eliminate barriers to the full participation of members of racial minorities in society;

(b) shall assist Government and departments of Government to develop policies on race relations;

(c) shall monitor implementation of policies on race relations adopted by Government or a department of Government; and

(d) may, on application by any person, give such advice and assistance with respect to the adoption or carrying out of a program, plan or arrangement as will foster good relations between races and cultures.

shall (3) The Co-ordinator of Race Relations

(a) perform such functions and duties as are assigned to the Co-ordinator of Race Relations by the Commission; and

(b) report to the Commission on the activities of the Race Relations Division.

6 Section 32 of said Chapter 214 is repealed and the following Sections substituted therefor:

32 (1) When, at any stage after the filing of a complaint and before the commencement of a hearing before a board of inquiry, a settlement is agreed on by the parties, the terms of the settlement shall be referred to the Commission for approval or rejection.

(2) Where the Commission approves or rejects the terms of a settlement referred to in subsection (1), it shall so certify and notify the parties.

32A (1) The Commission may, at any stage after the filing of a complaint, appoint a board of inquiry to inquire into the complaint.

(2) A board of inquiry shall not be composed of more than three members.

(3) No member, officer or employee of the Commission, and no individual who has acted as an investigator in respect of the complaint in relation to which the board of inquiry is appointed, is eligible to be appointed to the board of inquiry.

(4) A member of a board of inquiry is entitled to be paid such remuneration and expenses for the performance of duties as a member of the board of inquiry as may be determined by the Governor in Council.

(5) Where a board of inquiry is composed of more than one member, the Commission shall appoint one of the members to chair the board of inquiry.

7 Subsection (2) of Section 42 of said Chapter 214 is repealed and the following subsections substituted therefor:

(2) The Governor in Council may make regulations respecting any matter the Governor in Council deems necessary or advisable for the attainment of the objects and purposes of this Act and, in particular, may make regulations

(a) providing for affirmative action programs or other special programs;

(b) defining any word or expression used in this Act and not defined herein.

(3) The exercise by the Governor in Council of the authority contained in subsection (2) shall be regulations within the meaning of the *Regulations Act*.

8 This Act comes into force on and not before such day as the Governor in Council orders and declares by proclamation.