

CHAPTER 5

AN ORDINANCE TO PREVENT DISCRIMINATION IN REGARD TO ACCOMMODATION AND EMPLOYMENT AND IN REGARD TO MEMBERSHIP IN TRADE UNIONS BY REASON OF RACE, CREED, COLOUR, NATIONALITY, ANCESTRY OR PLACE OF ORIGIN.

(Assented to November 10, 1966.)

Whereas recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world and is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations;

And whereas it is public policy in the Northwest Territories that every man and woman is free and equal in dignity and rights without regard to race, creed, colour, nationality, ancestry or place of origin;

Now therefore, the Commissioner of the Northwest Territories, by and with the advice and consent of the Council of the said Territories, enacts as follows:

SHORT TITLE.

Short title.

1. This Ordinance may be cited as the *Fair Practices Ordinance*.

INTERPRETATION.

Definitions.

2. In this Ordinance,

"Employee."

(a) "employee" means any person who is in receipt of, or entitled to, compensation for labour or services performed for another, but does not include an independent contractor;

"Employers' Organization."

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

"Employment agency."

(c) "employment agency" includes a person who undertakes, with or without compensation, to procure employment for persons; and

"Trade union."

(d) "trade union" means any organization of employees formed for the purpose of regulating relations between employers and employees.

EMPLOYMENT.

Employers not to discriminate.

3. (1) No employer shall refuse to employ, or to continue to employ, a person or adversely discriminate in any term or condi-

tion of employment of any person because of the race, creed, colour, nationality, ancestry or place of origin of that person.

(2) No person shall

(a) use or circulate any form of application for employment;

(b) publish any advertisement in connection with employment; or

(c) make any written or oral inquiry

that expresses either directly or indirectly any limitation, specification or preference as to the race, creed, colour, nationality, ancestry or place of origin of any person or that requires an applicant to furnish any information concerning race, creed, colour, nationality, ancestry or place of origin.

Employment applications and advertisements not to discriminate.

(3) No trade union shall

(a) exclude any person from full membership;

(b) expel, suspend or otherwise discriminate against any of its members; or

(c) discriminate against any person in regard to his employment by an employer;

Membership in trade unions.

because of the race, creed, colour, nationality, ancestry or place of origin of that person.

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

Discharge, expulsion, etc.

ACCOMMODATION.

4. (1) No person shall, because of the race, creed, colour, nationality, ancestry or place of origin of any person, deny to that person the accommodation, services or facilities available in any place to which the public is customarily admitted.

Discrimination prohibited.

(2) No person shall, directly or indirectly,

Idem.

(a) deny to any person or class of persons occupancy of any apartment in any building that contains self-contained dwelling units; or

(b) discriminate against any person or class of persons with respect to any term or condition of occupancy of any apartment in any building that contains self-contained dwelling units,

because of the race, creed, colour, nationality, ancestry or place of origin of that person or class of persons.

PUBLICATION.

Discrimination prohibited in notices, signs, etc.

5. (1) No person shall publish or display or cause or permit to be published or displayed 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, creed, colour, nationality, ancestry or place of origin of that person or class of persons.

Exception as to matters of opinion.

(2) Nothing in this section shall be deemed to interfere with the free expression of opinion upon any subject.

EQUAL PAY.

Equal pay for equal work.

6. (1) No employer shall discriminate between his male and female employees by paying 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.

Saving.

(2) A difference in the rate of pay between a female and a male employee based on any factor other than sex does not constitute a failure to comply with subsection (1).

COMPLAINTS.

Complaint.

7. (1) Any person claiming to be aggrieved because of an alleged violation of any provision of this Ordinance may make a complaint in writing to an officer appointed by the Commissioner to inquire into complaints made under this Ordinance.

Officer appointed to hear complaint.

(2) The Commissioner may appoint an officer to inquire into any complaint made under subsection (1), and such officer shall give full opportunity to all parties to present evidence and make representations and shall endeavour to effect settlement of the matters complained of.

Recommendation of officer to Commissioner.

(3) Where a settlement of a complaint is not effected and the officer finds that the complaint is supported by evidence, he shall recommend to the Commissioner the action that in his opinion should be taken with respect to the complaint.

Clarification of recommendation.

(4) Where the officer has made a recommendation pursuant to subsection (3), the Commissioner may direct him to clarify or amplify his recommendation; and the recommendation shall be deemed not to have been received by the Commissioner until it has been clarified or amplified.

Copy of recommendation to persons affected.

(5) Upon receipt of the recommendation of the officer, the Commissioner shall furnish a copy thereof to each of the persons affected and shall publish the recommendation, if he deems it advisable, in such manner as he sees fit.

Order of Commissioner.

(6) The Commissioner may make whatever order he deems necessary to carry into effect the recommendation of the officer, including an order for the reinstatement of an employee with or

without compensation for loss of employment, and such order shall be served upon the persons affected thereby.

(7) Every person in respect of whom an order is made pursuant to subsection (6) shall comply therewith, unless such order is varied or set aside by a judge of the Territorial Court. Compliance with order.

8. (1) Any person affected by an order of the Commissioner may, at any time within ten days after service of the order, appeal by way of originating notice of motion to a judge of the Territorial Court to vary or set aside the order. Appeal.

(2) The appellant shall, not less than ten days before the date for the hearing of the appeal stated in the originating notice of motion, serve on the complainant and on the Commissioner a copy of the originating notice of motion. Service of notice.

(3) The judge of the Territorial Court may hear the appeal on the day and at the time stated in the originating notice of motion or may adjourn the hearing for such time as he deems fit, and may direct notice thereof to be served on such other persons as he deems advisable. Hearing of appeal.

(4) The hearing of an appeal under this section shall be by a trial *de novo* and the decision of the judge shall be conclusive and not subject to further appeal. Decision of judge final.

OFFENCE AND PENALTY.

9. (1) Every person who violates a provision of this Ordinance is guilty of an offence and liable on summary conviction, Offences.

(a) if an individual, to a fine of one hundred dollars and in default of payment to imprisonment for a period not exceeding three months; and

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

(2) In a prosecution for an offence under this Ordinance, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified. Offence by employee or agent.

(3) Where a fine that is imposed upon a corporation under subsection (1) is not paid as directed, the prosecutor may, by filing the conviction, enter as a judgment the amount of the fine and costs, if any, in the Territorial Court and that judgment is enforceable against the corporation in the same manner as if it were a judgment rendered against the corporation in that Court in civil proceedings. Fine enforceable as a judgment.

10. Where an employer is convicted of a violation of subsection (4) of section 3 by reason of having discharged, expelled or suspended an employee, the convicting magistrate, in addition to any other penalty, may Payment to employee and reinstatement.

- (a) order the employer to pay to the employee compensation for loss of employment not exceeding such sum as, in the opinion of the magistrate, is equivalent to the wages, salary or other remuneration that would have accrued to the employee up to the date of conviction but for the discharging, expelling or suspending of that employee; and
- (b) order the employer to reinstate the employee in the position the employee would have held but for the discharging, expelling or suspending of that employee on such date as, in the opinion of the magistrate, is just and proper in the circumstances.

Injunction proceedings.

**11.** (1) Where a person has been convicted of an offence under this Ordinance, the Commissioner may apply, by way of originating notice, to a judge of the Territorial Court for an order enjoining that person from continuing the offence.

Idem.

(2) Any order made by a judge of the Territorial Court pursuant to subsection (1) may be enforced in the same manner as any other order or judgment of that Court.

Consent to prosecution.

**12.** No prosecution of a violation of this Ordinance shall be instituted without the consent in writing of the Commissioner.

EXCEPTIONS.

Where Ordinance not applicable.

**13.** (1) This Ordinance does not apply to the employment of persons

- (a) in domestic service in a private home;
- (b) in any exclusively charitable, philanthropic, educational, fraternal, religious or social organization or corporation that is not operated for private profit;
- (c) in any organization that is operated primarily to foster the welfare of a religious or racial group and that is not operated for private profit; or
- (d) by an employer who employs less than five employees.

Idem.

(2) Nothing in this Ordinance deprives any school or board of trustees thereof of the right to employ persons of any religion or religious creed where religious instruction forms or can form the whole or part of the instruction or training provided by that school or board of trustees under the *School Ordinance*.

Idem.

(3) Nothing in this Ordinance deprives any employer of the right to employ persons of any particular race, creed, colour, nationality, ancestry or place of origin in preference to other persons where such preference is based upon a *bona fide* occupational qualification necessary to the normal operation of the employer's business or enterprise.