

CHAPTER 93

**An Act to establish the Ontario Code
of Human Rights and to provide
for its Administration**

*Assented to March 30th, 1962
Session Prorogued April 18th, 1962*

WHEREAS recognition of the inherent dignity and the Preamble
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 Ontario that every
person is free and equal in dignity and rights without regard
to race, creed, colour, nationality, ancestry or place of origin;

AND WHEREAS these principles have been confirmed in
Ontario by a number of enactments of this Legislature;

AND WHEREAS it is desirable to enact a measure to codify
and extend such enactments and to simplify their administra-
tion;

Therefore, Her Majesty, by and with the advice and consent
of the Legislative Assembly of the Province of Ontario, enacts
as follows:

PART I

1.—(1) No person shall publish or display or cause to be Discrimina-
tion pro-
hibited in
notices,
signs, etc.
published or displayed 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 such person or class of persons.

(2) Nothing in this section shall be deemed to interfere Exception
as to
matters of
opinion
with the free expression of opinion upon any subject. R.S.O.
1960, c. 131, s. 3, *amended*.

Discrimination prohibited in places to which public admitted

2. No person, directly or indirectly, alone or with another, by himself or by the interposition of another, shall,

- (a) deny to any person or class of persons the accommodation, services or facilities available in any place to which the public is customarily admitted; or
- (b) discriminate against any person or class of persons with respect to the accommodation, services or facilities available in any place to which the public is customarily admitted,

because of the race, creed, colour, nationality, ancestry or place of origin of such person or class of persons. R.S.O. 1960, c. 131, s. 2; 1960-61, c. 28, s. 1, *amended*.

Discrimination prohibited in apartment buildings

3. No person, directly or indirectly, alone or with another, by himself or by the interposition of another, shall,

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

because of the race, creed, colour, nationality, ancestry or place of origin of such person or class of persons. 1960-61, c. 28, s. 2, *amended*.

Employers not to discriminate in employment practices

4.—(1) No employer or person acting on behalf of an employer shall refuse to employ or to continue to employ any person or discriminate against any person with regard to employment or any term or condition of employment because of his race, creed, colour, nationality, ancestry or place of origin.

Membership in trade union

(2) No trade union shall exclude from membership or expel or suspend any person or member or discriminate against any person or member because of race, creed, colour, nationality, ancestry or place of origin. R.S.O. 1960, c. 132, ss. 2, 3.

Employment applications and advertisements not to discriminate

(3) 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 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. R.S.O. 1960, c. 132, s. 4, *amended*.

(4) This section does not apply,

Where
section does
not apply

(a) to a domestic employed in a private home;

(b) to an exclusively religious, philanthropic, educational, fraternal or social organization that is not operated for private profit or to any organization that is operated primarily to foster the welfare of a religious or ethnic group and that is not operated for private profit;

(c) to an employer who employs fewer than five employees. R.S.O. 1960, c. 132, s. 5.

R. 1954-55
5.—(1) No employer or person acting on behalf of an 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. ^{Equal pay for equal work}

(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 this section. R.S.O. 1960, c. 139, s. 2, *amended*. ^{Saving}

PART II

6.—(1) The Ontario Human Rights Commission is continued. *New*. ^{Commission continued}

(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. ^{Composition}

(3) The members of the Commission shall be appointed by the Lieutenant Governor in Council. R.S.O. 1960, c. 270, s. 2 (2), *amended*. ^{Members}

(4) The Lieutenant Governor in Council may designate one of the members as chairman. ^{Chairman}

(5) The Lieutenant Governor in Council may fill any vacancy in the membership of the Commission. ^{Vacancies}

(6) The Lieutenant Governor in Council may fix the remuneration of the members of the Commission. R.S.O. 1960, c. 270, s. 2 (3-5). ^{Remuneration}

Responsibility

7. The Commission is responsible to the Minister for the administration of this Act. *New.*

Function

8. The Commission has power to administer this Act and, without limiting the generality of the foregoing, it is the function of the Commission,

- (a) to forward the principle that every person is free and equal in dignity and rights without regard to race, creed, colour, nationality, ancestry or place of origin;
- (b) to promote an understanding of, acceptance of and compliance with this Act;
- (c) to develop and conduct educational programmes designed to eliminate discriminatory practices related to race, creed, colour, nationality, ancestry or place of origin. R.S.O. 1960, c. 270, s. 3; 1960-61, c. 63, s. 3, *amended.*

Staff

9. The Lieutenant Governor in Council may appoint a secretary and such other officers, clerks and servants of the Commission as are deemed appropriate. R.S.O. 1960, c. 270, s. 4.

Cost

10. The cost of the administration of this Act is payable out of the moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 270, s. 5.

Regulations

11. The Lieutenant Governor in Council may make regulations adding to or extending the functions of the Commission and respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 270, s. 6, *amended.*

PART III

Complaints

12.—(1) The Commission itself or through any person designated so to do may inquire into the complaint of any person that he has been discriminated against contrary to this Act and it shall endeavour to effect a settlement of the matter complained of.

Form of complaint

(2) Every such complaint shall be in writing on the form prescribed by the Commission and shall be mailed or delivered to the Commission at its office. R.S.O. 1960, c. 131, s. 4; c. 132, s. 6; c. 139, s. 3, *amended.*

13.—(1) If the Commission is unable to effect a settlement of the matter complained of, the Minister may on the recommendation of the Commission, appoint a board of inquiry and shall forthwith communicate the names of the members of the board to the parties to the complaint, and thereupon it shall be presumed conclusively that the board was appointed in accordance with this Act.

Boards of inquiry

(2) The board has all the powers of a conciliation board under section 28 of *The Labour Relations Act*.

Powers
R.S.O. 1960,
c. 202

(3) The board shall give the parties full opportunity to present evidence and to make submissions and, if it finds that the complaint is supported by the evidence, it shall recommend to the Commission the course that ought to be taken with respect to the complaint.

Duties

(4) If the board is composed of more than one person, the recommendations of the majority are the recommendations of the board.

Majority recom-
mendations
to prevail

(5) After the board has made its recommendations, the Commission may direct it to clarify or amplify any of them, and they shall be deemed not to have been received by the Commission until they have been so clarified or amplified.

Clarification
of recom-
mendations

(6) The Minister, on the recommendation of the Commission, may issue whatever order he deems necessary to carry the recommendations of the board into effect, and such order is final and shall be complied with in accordance with its terms.

Minister's
order

(7) The Lieutenant Governor in Council may determine the rate of remuneration of the chairman and members of the boards of inquiry appointed under this section. R.S.O. 1960, c. 131, s. 5; c. 132, s. 7; c. 139, s. 4, *amended*.

Remunera-
tion

PART IV

14.—(1) Every person who contravenes any provision of this Act or any order made under this Act is guilty of an offence and a summary conviction is liable,

Offence

(a) if an individual, to a fine of not more than \$100; or

(b) if a corporation, trade union, employers' organization or employment agency, to a fine of not more than \$500. R.S.O. 1960, c. 131, s. 6 (1); c. 132, s. 8 (1); c. 139, s. 5 (1), *amended*.

Disposition
of fines

(2) The fines recovered for offences against this Act shall be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. R.S.O. 1960, c. 131, s. 6 (2); c. 132, s. 8 (2); c. 139, s. 5 (2).

Consent to
prosecution

15. No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Minister. R.S.O. 1960, c. 131, s. 7; c. 132, s. 10 (1); c. 139, s. 6, *amended*.

Style of
prosecutions

16. A prosecution for an offence under this Act may be instituted against a trade union or employers' organization in the name of the union or organization, and any act or thing done or omitted by an officer, official or agent of a trade union or employers' organization within the scope of his authority to act on behalf of the trade union or employers' organization shall be deemed to be an act or thing done or omitted by the trade union or employers' organization. R.S.O. 1960, c. 132, s. 9.

Injunction
proceedings

17.—(1) Where a person has been convicted of a contravention of this Act, the Minister may apply by way of originating notice to a judge of the Supreme Court for an order enjoining such person from continuing such contravention.

Idem

(2) The judge in his discretion may make such order and the order may be entered and enforced in the same manner as any other order or judgment of the Supreme Court. R.S.O. 1960, c. 131, s. 8, *amended*.

PART V

Interpre-
tation

18. In this Act,

- (a) "Commission" means the Ontario Human Rights Commission; R.S.O. 1960, c. 270, s. 1, cl. (a), *amended*.
- (b) "employers' organization" means an organization of employers formed for purposes that include the regulation of relations between employers and employees; R.S.O. 1960, c. 132, s. 1, cl.
- (c) "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; R.S.O. 1960, c. 132, s. 1, cl. (b).

(d)

- (d) "establishment" means a place of business or the place where an undertaking or a part thereof is carried on; R.S.O. 1960, c. 139, s. 1, cl. (b).
- (e) "Minister" means the Minister of Labour or such other member of the Executive Council to whom this Act is assigned by the Lieutenant Governor in Council; R.S.O. 1960, c. 131, s. 1, cl. (a); c. 132, s. 1, cl. (d); c. 139, s. 1, cl. (c); c. 270, s. 1, cl. (b), *amended*.
- (f) "pay" means remuneration in any form; R.S.O. 1960, c. 139, s. 1, cl. (d).
- (g) "person", in addition to the extended meaning given it by *The Interpretation Act*, includes an employment agency, an employers' organization and a trade union; R.S.O. 1960, c. 191.
- (h) "trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers. R.S.O. 1960, c. 132, s. 1, cls. (e, f).

PART VI

19. *The Fair Employment Practices Act, The Female Employees' Fair Remuneration Act, The Fair Accommodation Practices Act, The Ontario Human Rights Commission Act, The Fair Accommodation Practices Amendment Act, 1960-61 and The Ontario Anti-Discrimination Commission Amendment Act, 1960-61* are repealed. R.S.O. 1960, cc. 132, 139, 131, 270; 1960-61, cc. 28, 63, repealed

20. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation. Commencement

21. This Act may be cited as *The Ontario Human Rights Code, 1961-62*. Short title