

CHAPTER 119

Human Rights Code of British Columbia Act

[Assented to 7th November, 1973.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Interpre-
tation.

1. In this Act, unless the context otherwise requires,
 - “age” means any age of forty-five years or more and less than sixty-five years;
 - “employment” includes the relationship of master and servant, master and apprentice, and principal and agent if a substantial part of the agent’s services relate to the affairs of one principal; and “employ” has a corresponding meaning;
 - “employers’ organization” means an organization of employers formed for purposes that include the regulation of relations between employers and employees;
 - “employment agency” includes a person who undertakes, with or without compensation, to procure employees for employers or to procure employment for persons;
 - “occupational association” means any organization, other than a trade-union or employers’ organization, in which membership is a prerequisite to carrying on any trade, occupation, or profession;
 - “person” includes an employment agency, an employers’ association, an occupational association and a trade-union;
 - “trade-union” means an organization of employees formed for purposes that include the regulation of relations between employees and employers.

DISCRIMINATORY PRACTICES

Discrimi-
natory
publication.

2. (1) No person shall publish or display before the public, or cause to be published or displayed before the public, any notice, sign, symbol, emblem, or other representation indicating discrimination or an intention to discriminate against any person or class of persons in any manner prohibited by this Act.

(2) Notwithstanding subsection (1), any person may, by speech or in writing, freely express his opinions on any subject.

Discrimi-
nation in
public
facilities.

3. (1) No person shall
 - (a) deny to any person or class of persons any accommodation, service, or facility customarily available to the public; or
 - (b) discriminate against any person or class of persons with respect to any accommodation, service, or facility customarily available to the public,unless reasonable cause exists for such denial or discrimination.

- (2) For the purposes of subsection (1),
 - (a) the race, religion, colour, ancestry or place of origin of any person or class of persons shall not constitute reasonable cause; and
 - (b) the sex of any person shall not constitute reasonable cause unless it relates to the maintenance of public decency.

Discrimination in the purchase of property.

- 4. No person shall
 - (a) deny to any person or class of persons the opportunity to purchase any commercial unit or dwelling unit that is advertised or in any way represented as being available for sale; or
 - (b) deny to any person or class of persons the opportunity to purchase or otherwise acquire land or an interest in land; or
 - (c) discriminate against any person or class of persons with respect to any term or condition of the purchase or other acquisition of any commercial unit, dwelling unit, land, or interest in land,

because of the race, religion, colour, sex, ancestry, place of origin or marital status of that person or class of persons.

Discrimination in tenancy premises.

- 5. (1) No person shall
 - (a) deny to any person or class of persons the right to occupy as a tenant any space that is advertised or otherwise in any way represented as being available for occupancy by a tenant; or
 - (b) discriminate against any person or class of persons with respect to any term or condition of the tenancy of such space,

because of the race, sex, marital status, religion, colour, ancestry or place of origin of that person or class of persons, or of any other person or class of persons.

(2) Subsection (1) does not apply where a person advertises or otherwise represents that space is available for occupancy by another person who is to share with him the use of any sleeping, bathroom, or cooking facilities in the space.

Discrimination in wages.

6. (1) No employer shall discriminate between his male and female employees by employing an employee of one sex for any work at a rate of pay that is less than the rate of pay at which an employee of the other sex is employed by that employer for similar or substantially similar work.

(2) For the purposes of subsection (1), the concept of skill, effort, and responsibility shall, subject to such factors in respect of pay rates as seniority systems, merit systems, and systems that measure earnings by quantity or quality of production, be used to determine what is similar or substantially similar work.

(3) A difference in the rate of pay between employees of different sexes based on any factor other than sex does not constitute a failure to comply with this section if the factor on which the difference is based would reasonably justify such a difference.

(4) No employer shall reduce the rate of pay of an employee in order to comply with this section.

(5) Where an employee is paid less than the rate of pay to which he is entitled under this section, he is entitled to recover from his employer, by action, the difference between the amount paid and the amount to which he was entitled, together with the costs, but

- (a) no action shall be commenced later than twelve months from the termination of his services; and
- (b) the action applies only to wages of an employee during the twelve month period immediately preceding the date of the termination of his services, or the date of the commencement of his action, whichever date occurs first.

Discrimination in employment advertisements.

7. No person shall use or circulate any form of application for employment, publish any advertisement in connection with employment or prospective employment, or make any written or oral inquiry of an applicant that

- (a) expresses either directly or indirectly any limitation, specification, or preference as to the race, religion, colour, sex, marital status, age, ancestry or place of origin of any person; and
- (b) requires an applicant to furnish any information concerning race, religion, colour, ancestry, place of origin or political belief.

Discrimination in respect of employment.

8. (1) Every person has the right of equality of opportunity based upon bona fide qualifications in respect of his occupation or employment, or in respect of an intended occupation, employment, advancement, or promotion; and, without limiting the generality of the foregoing,

- (a) no employer shall refuse to employ, or to continue to employ, or to advance or promote that person, or discriminate against that person in respect of employment or a condition of employment; and
- (b) no employment agency shall refuse to refer him for employment, unless reasonable cause exists for such refusal or discrimination.

(2) For the purposes of subsection (1),

- (a) the race, religion, colour, age, marital status, ancestry, place of origin, or political belief of any person or class of persons shall not constitute reasonable cause;
- (b) the sex of any person shall not constitute reasonable cause unless it relates to the maintenance of public decency;
- (c) a conviction for a criminal or summary conviction charge shall not constitute reasonable cause unless such charge relates to the occupation or employment, or to the intended occupation, employment, advancement, or promotion, of a person.

(3) No provision of this section relating to age shall prohibit the operation of any term of a bona fide retirement, superannuation, or pension plan, or the terms or conditions of any bona fide group or employee insurance plan, or of any bona fide scheme based upon seniority.

9. (1) Every person has the right of equality of opportunity based upon bona fide qualifications in respect of his occupation or employment, and in respect of his membership or intended membership in a trade-union, employers' association, or occupational association; and, without limiting the generality of the foregoing, no trade-union, employers' association, or occupational association shall, without reasonable cause in respect of such qualifications of that person,

- (a) refuse membership to, expel, suspend, or otherwise discriminate against that person; or
- (b) negotiate, on behalf of that person, an agreement that would discriminate against him contrary to this Act.

(2) For the purposes of subsection (1),

- (a) the sex, race, religion, colour, age, marital status, ancestry, place of origin, or political belief of any person or class of persons shall not constitute reasonable cause; and
- (b) the conviction of criminal or summary convictions charges shall not constitute reasonable cause unless such charges relate to the occupation, employment, or membership, or to the intended occupation, employment, or membership of a person.

(3) No provision of this section relating to age shall prohibit the operation of any term of a bona fide retirement, superannuation, or pension plan, or the terms or conditions of any bona fide group or employee insurance plan, or of any bona fide scheme based upon seniority.

10. No person shall evict, discharge, suspend, expel, intimidate, coerce, impose any pecuniary or other penalty upon, or otherwise discriminate against, any person because that person complains, gives evidence, or otherwise assists in respect of the initiation or prosecution of a complaint or other proceeding under this Act.

ADMINISTRATION

11. (1) There is hereby established a commission to be known as the British Columbia Human Rights Commission consisting of such members as the Lieutenant-Governor in Council may from time to time appoint to hold office during pleasure.

(2) The Lieutenant-Governor in Council shall designate one member of the commission as chairman.

Discrimination by trade-unions and employer's and occupational associations.

Protection of complainant.

Human Rights Commission.

(3) The chairman and each member shall be paid such remuneration for his services as a member of the commission as the Lieutenant-Governor in Council may determine, and such actual and reasonable expenses as may be incurred by him in discharging his duties as a member of the commission.

(4) It is the function of the commission

- (a) to promote the principles of this Act;
- (b) to promote an understanding of and compliance with this Act;
- (c) to develop and conduct educational programmes designed to eliminate discriminatory practices; and
- (d) to encourage and co-ordinate programmes and activities promoting human rights and fundamental freedoms.

(5) The commission may approve programmes of government, private organizations or persons designed to promote the welfare of any class of individuals and any approved programme shall be deemed not to be in contravention of any of the provisions of this Act.

(6) Where

- (a) a person contravenes this Act or is discriminated against contrary to this Act; and
- (b) every person who is directly affected by such discrimination or contravention agrees to a settlement in respect of such discrimination or contravention,

the commission may, upon application, approve the settlement, and, thereupon, such settlement shall be deemed not to be in contravention of any of the provisions of this Act.

(7) The Lieutenant-Governor in Council may, by order, 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.

Director
and employees.

12. (1) The Minister of Labour shall appoint, in accordance with the *Public Service Act*, a director and such other employees as may be required for the purposes of this Act.

(2) The director shall

- (a) act as chief executive officer of the commission; and
- (b) act as registrar for the purpose of ensuring that complaints are dealt with in accordance with this Act.

(3) The director has, for the purposes of an inquiry under this Act, the power of a commissioner appointed under the *Public Inquiries Act*.

Boards
of inquiry.

13. (1) The Minister of Labour shall appoint persons to a panel who shall be eligible to serve on boards of inquiry.

(2) The Lieutenant-Governor in Council may determine the rate of remuneration of members of the panel.

Annual
reports.

14. (1) The director shall annually prepare, with the commission, and submit to the Minister of Labour a report of the activities of the commission, the director, and boards of inquiry during the preceding calendar year.

(2) The Minister of Labour shall lay forthwith the report before the Legislative Assembly if it is in session and, if not, within fifteen days of the commencement of the next ensuing session.

ENFORCEMENT OF ACT

Allega-
tions.

15. Where the director

- (a) receives a complaint alleging that a person, whether or not he is the complainant, has been discriminated against contrary to this Act; or
- (b) receives a complaint alleging that a person has contravened this Act; or
- (c) alleges, whether or not a complaint is received, that a person has contravened this Act or that a person has been discriminated against contrary to this Act; or
- (d) receives from the commission an allegation that a person has contravened this Act or that a person has been discriminated against contrary to this Act,

the director shall forthwith inquire into, investigate, and endeavour to effect a settlement of the alleged discrimination or contravention.

Reference to
board of
inquiry.

16. (1) Where the director is unable to settle an allegation, or where he is of the opinion that an allegation will not be settled by him, the director shall make a report to the Minister of Labour who may refer the allegation to a board of inquiry and

- (a) appoint a board of inquiry consisting of one or more panel members appointed under section 13; and
- (b) fix a place at which and a date on which the board of inquiry shall hear and decide upon the allegation.

(2) A board of inquiry and every member thereof has, for the purposes of a reference under subsection (1), the powers of a commissioner appointed under the *Public Inquiries Act*.

(3) For the purposes of a reference under subsection (1), the persons who are entitled to be parties to a proceeding before the board of inquiry are

- (a) the director, commission, or person who made the allegation;
- (b) the person alleged to have been discriminated against contrary to this Act;
- (c) the person who is alleged to have contravened this Act; and
- (d) any other person who, in the opinion of the board of inquiry, would be directly affected by an order made by it.

(4) A board of inquiry shall give the parties opportunity to be represented by counsel, to present relevant evidence, to cross-examine any witnesses and to make submissions.

(5) The board of inquiry may receive and accept, on oath, affidavit, or otherwise, such evidence or information as it, in its discretion, considers necessary and appropriate, whether or not such evidence or information would be admissible in a court of law.

(6) The Lieutenant-Governor in Council may, by order, establish rules governing the procedure of a board of inquiry.

Orders by
board of
inquiry.

17. (1) Where a board of inquiry is of the opinion that an allegation is not justified, the board may dismiss the allegation.

(2) Where a board of inquiry is of the opinion that an allegation is justified, the board of inquiry shall order any person who contravened this Act to cease such contravention, and to refrain from committing the same or a similar contravention, and may

- (a) order a person who contravened the Act to make available to the person discriminated against such rights, opportunities, or privileges as, in the opinion of the board, he was denied contrary to this Act;
- (b) order the person who contravened the Act to compensate the person discriminated against for all, or such part as the board may determine, of any wages or salary lost, or expenses incurred, by reason of the contravention of this Act; and
- (c) where the board is of the opinion that
 - (i) the person who contravened this Act did so knowingly or with a wanton disregard; and
 - (ii) the person discriminated against suffered aggravated damages in respect of his feelings or self-respect,the board may order the person who contravened this Act to pay to the person discriminated against such compensation, not exceeding five thousand dollars, as the board may determine.

(3) A board of inquiry may make such order as to costs as it considers appropriate.

(4) Where an order is made under subsection (3) or clause (b) or (c) of subsection (2), the commission or the person who was discriminated against and in whose favour the order is made may file a certified copy of the order with the Supreme Court or with a County Court, and, thereupon, the order has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of the appropriate court for the recovery of a debt of the amount stated in the order against the person named in it.

Appeals.

18. An appeal lies from a decision of a board of inquiry to the Supreme Court upon

- (a) any point or question of law or jurisdiction; or
- (b) any finding of fact necessary to establish its jurisdiction that is manifestly incorrect,

and the rules under the *Summary Convictions Act* governing appeals by way of stated case to that court apply to appeals under this section, and a reference to the word "Justice" shall be deemed to be a reference to the board of inquiry.

19. (1) Any proceeding under this Act in respect of a trade-union, employers' organization, or occupational association may be taken in its name.

(2) Any act or thing done or omitted by an officer, official, or agent of a trade-union or employers' organization or occupational association within the scope of his authority shall be deemed to be an act or thing done or omitted by the trade-union, employers' organization, or occupational association, as the case may be.

20. No person who, on behalf of the commission or the director, collects information for the purposes of this Act shall,

- (a) except in an appeal under section 18, be required by any court to give evidence respecting such information; or
- (b) be required by any court to give evidence respecting any communication made to him by a person who is alleged to have contravened this Act.

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

22. Where a charitable, philanthropic, educational, fraternal, religious or social organization or corporation that is not operated for profit has as a primary purpose the promotion of the interests and welfare of an identifiable group or class of persons characterized by a common race, religion, age, sex, marital status, political belief, colour, ancestry or place of origin, that organization or group shall not be considered as contravening this Act because it is granting a preference to members of the identifiable group or class of persons.

23. (1) No allegation under this Act shall be made more than six months after the date of the alleged contravention or, where a continuing contravention is alleged, after the date of the last alleged contravention, of this Act.

(2) No claim in respect of compensation or damages because of a contravention of this Act shall be made with respect to any contravention that occurred more than twelve months before the allegation is made.

Style of
cause for
trade-unions,
etc.

Privileged
information.

Irregu-
larity.

Private
organiza-
tions exempt.

Limitations.

- Offence.** 24. (1) Subject to subsection (2), every person who contravenes a provision of this Act, or who fails to obey an order of a board of inquiry, is guilty of an offence and is liable, on summary conviction,
- (a) if an individual, to a fine of not more than one thousand dollars; and
 - (b) if a corporation, trade-union, employers' organization or employment agency, to a fine of not more than five thousand dollars.
- (2) Where a board of inquiry has made an order under clause (b) or (c) of subsection (2) of section 17 against a person who has contravened this Act, that person shall not be liable under subsection (1) in respect of the same contravention.
- Binds Crown.** 25. This Act applies to and binds the Crown in right of the Province.
- Expenses.** 26. (1) All moneys required to be expended for the purposes of this Act shall be paid out of the Consolidated Revenue Fund with moneys authorized by an Act of the Legislature to be so paid and applied, and, for the fiscal year 1973/74, shall be paid out of the Consolidated Revenue Fund.
- (2) For the purposes of subsection (1), the Minister of Labour is appointed the fiscal agent of the commission.
- Repeal.** 27. The *Human Rights Act*, being chapter 10 of the Statutes of British Columbia, 1969, is repealed.
- Commencement.** 28. (1) This Act, excepting this section and the title, comes into force on a date to be fixed by the Lieutenant-Governor by his Proclamation, and he may fix different dates for the coming into force of the several provisions.
- (2) This section and the title comes into force on Royal Assent.