



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

HUMAN RIGHTS ACT

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For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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HUMAN RIGHTS ACT

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HUMAN RIGHTS ACT

CHAPTER H-12

PREAMBLE

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 recognized in Prince Edward Island as a fundamental principle that all persons are equal in dignity and human rights without regard to age, colour, creed, disability, ethnic or national origin, family status, gender expression, gender identity, marital status, political belief, race, religion, sex, sexual orientation, or source of income;

AND WHEREAS in 1968 *An Act Respecting Human Rights* was passed by the legislature of this province in response to the Universal Declaration of Human Rights passed by the General Assembly of the United Nations;

AND WHEREAS the principles contained in *An Act Respecting Human Rights* require amplification;

AND WHEREAS it is deemed desirable to provide for the people of the province a Human Rights Commission to which complaints relating to discrimination may be made: *2013,c.15,s.1*.

1. Definitions

(1) In this Act

- (a) “**business, professional or trade association**” includes an organization of persons which by an enactment, agreement or custom has power to admit, suspend, expel or direct persons in relation to any business or trade or in the practice of any occupation or calling;
- (a.1) “**Chairperson**” means the Chairperson of the Human Rights Commission except where the context otherwise requires;
- (a.2) “**child**” includes an adopted child;
- (b) “**commercial unit**” means any building or other structure or part thereof that is used or occupied or is intended, arranged or designed to be used or occupied for the manufacture, sale, resale, processing, reprocessing, displaying, storing, handling, garaging or distribution of personal property, or any space that is used or occupied or is intended, arranged or designed to be used or occupied as a separate business or professional unit or office in any building or other structure or a part thereof;
- (c) “**Commission**” means the Prince Edward Island Human Rights Commission;
- (c.1) “**disability**” means a previous or existing disability, infirmity, malformation or disfigurement, whether of a physical, mental or intellectual nature, that is caused by injury, birth defect or illness, and includes but is not limited to epilepsy, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on an assist animal, wheelchair or other remedial device;

- (d) “**discrimination**” means discrimination in relation to age, colour, creed, disability, ethnic or national origin, family status, gender expression, gender identity, marital status, political belief, race, religion, sex, sexual orientation, or source of income of any individual or class of individuals;
- (e) “**employees’ organization**” includes an organization of employees formed for purposes that include the regulation of relations between employees and employers;
- (f) “**employer**” includes a person who contracts with a person for services to be performed by that person or wholly or partly by another person;
- (g) “**employers’ organization**” includes an organization of employers formed for purposes that include the regulation of relations between employers and employees;
- (h) “**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.1) “**Executive Director**” means the person selected to the position of Executive Director of the Commission and includes that person’s delegate;
- (h.11) “**family status**” means the status of being in a parent and child relationship;
- (h.2) “**marital status**” means the status of being married, single, widowed, divorced, separated, or living with a person in a conjugal relationship outside marriage;
- (i) “**Minister**” means the member of the Executive Council charged with the administration of this Act by the Lieutenant Governor in Council;
- (i.1) “**parent**” includes an adoptive parent;
- (j) “**payment**” means remuneration in any form;
- (k) “**person**” includes employer, employers’ organization, employees’ organization, business, professional or trade association, whether acting directly or indirectly, alone or with another, or by the interposition of another;
- (l) repealed by 2012,c.19,s.1;
- (m) “**political belief**” means belief in the tenets of a political party that is at the relevant time registered under section 24 of the *Election Act* R.S.P.E.I. 1988, Cap. E-1 as evidenced by
 - (i) membership of or contribution to that party, or
 - (ii) open and active participation in the affairs of that party.

Construction of Act

- (2) This Act shall be deemed to prevail over all other laws of this province and such laws shall be read as being subject to this Act.

Onus

- (3) For the purposes of this Act the onus of establishing an allegation of discrimination or action on a discriminatory basis in relation to political belief is upon the person making the allegation. 1975,c.72,s.1; 1980,c.26,s.1; 1985,c.23,s.1; 1989(2nd),c.3,s.1; 1997(2nd),c.65,s.1; 1998,c.92,s.1; 2008,c.18,s.2; 2008,c.8,s.13; 2012,c.19,s.1,2; 2013,c.15,s.1.

PART I — DISCRIMINATION PROHIBITED

2. Discrimination in accommodation prohibited

- (1) No person shall discriminate



- (a) against any individual or class of individuals with respect to enjoyment of accommodation, services and facilities to which members of the public have access; or
- (b) with respect to the manner in which accommodations, services and facilities, to which members of the public have access, are provided to any individual or class of individuals.

Application

- (2) Subsection (1) does not prevent the denial or refusal of accommodation, services or facilities to a person on the basis of age if the accommodation, services or facilities are not available to that person by virtue of any enactment in force in the province. *1975, c.72, s.2; 1984, c.23, s.1.*

3. Denial of occupancy rights prohibited

- (1) No person shall
 - (a) deny to any individual or class of individuals, on a discriminatory basis, occupancy of any commercial unit or self-contained dwelling unit or accommodation in a housing unit that is used to provide rental accommodation; or
 - (b) discriminate against any individual or class of individuals with respect to any term or condition of occupancy of any commercial unit or self-contained dwelling unit, or accommodation in a housing unit that is used to provide rental accommodation.

Application of section

- (2) This section does not apply to the barring of any person because of the sex of such person
 - (a) from accommodation in a housing unit where the housing unit is in a structure having two or more housing units;
 - (b) from a self-contained dwelling unit, where the dwelling unit is in a structure having two or more self-contained dwelling units,

where occupancy of all the housing units or dwelling units, except that of the owner or the agent of the owner, is restricted to individuals of the same sex. *1975, c.72, s.3.*

4. Discrimination in property sales prohibited

No person who offers to sell property or any interest in property shall

- (a) refuse an offer to purchase the property or interest made by an individual or class of individuals on a discriminatory basis; or
- (b) discriminate against any individual or class of individuals with respect to any term or condition of sale of any property or interest. *1975, c.72, s.4.*

5. Restrictive covenants void

Where in an instrument transferring an interest in real property a covenant or condition restricts the sale, ownership, occupation, or use of the property on a discriminatory basis, the covenant or condition is void. *1975, c.72, s.5.*

6. Discrimination in employment prohibited

- (1) No person shall refuse to employ or to continue to employ any individual
 - (a) on a discriminatory basis, including discrimination in any term or condition of employment; or

- (b) because the individual has been convicted of a criminal or summary conviction offence that is unrelated to the employment or intended employment of the individual.

Employment agencies

- (2) No employment agency shall accept an inquiry in connection with employment from any employer or prospective employee that directly or indirectly expresses any limitation, specification or preference or invites information that is discriminatory and no employment agency shall discriminate against any individual.

Application for employment forms

- (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 inquiry in connection with employment that directly or indirectly expresses any limitation, specification or preference or invites information that is discriminatory.

Application of section

- (4) This section does not apply to
 - (a) a refusal, limitation, specification or preference based on a genuine occupational qualification;
 - (b) employment where disability is a reasonable disqualification;
 - (c) 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, if age, colour, creed, disability, ethnic or national origin, family status, gender expression, gender identity, marital status, political belief, race, religion, sex, sexual orientation, or source of income is a reasonable occupational qualification. *1975,c.72,s.6; 1985,c.23,s.2; 1987,c.6,s.8; 1998,c.92,s.2; 2008,c.18,s.3; 2012,c.19,s.2; 2013,c.15,s.1.*

7. Discrimination in pay prohibited

- (1) No employer or person acting on behalf of an employer shall discriminate between his employees by paying one employee at a rate of pay less than the rate of pay paid to another employee employed by him for substantially the same work, the performance of which requires equal education, skill, experience, effort, and responsibility and which is performed under similar working conditions, except where the payments are made pursuant to
 - (a) a seniority system;
 - (b) a merit system; or
 - (c) a system that measures earnings by quantity or quality of production or performance,but where the systems referred to in clauses (a) to (c) are based on discrimination, the exemptions do not apply.

Reduction of pay prohibited, where

- (2) No employer or person acting on his behalf shall reduce the rate of pay of an employee in order to comply with subsection (1).



Causing an employer to pay in contravention of ss.(1)

- (3) No business, professional or trade association, employees' or employers' organization, or employees, as the case may be, or its agents, shall cause or attempt to cause an employer to pay to his employees rates of pay that are in contravention of subsection (1).

Remedies of employee

- (4) Where an employee is paid less than the rate of pay to which the employee is entitled under this section, the employee is entitled, subject to subsection (5),
- (a) to recover from the employer by way of action in Supreme Court the difference between the amount paid and the amount to which the employee was entitled, together with costs;
 - (b) to enforcement of all other rights and remedies against the employer which the employee would have been entitled to had the employer not failed to comply with this section,
- but
- (c) proceedings under clause (a) or (b) shall be commenced within twelve months from the date upon which the cause of action arose and not afterwards;
 - (d) the proceedings under clauses (a) and (b) apply only to wages of an employee during the twelve month period immediately preceding the termination of the employee's services or the commencement of the proceedings, whichever occurs first;
 - (e) the proceedings under clause (a) or (b) may not be commenced or proceeded with where the employee had made a complaint on the prescribed form to the Commission in respect of the contravention of this section; and
 - (f) no complaint by an employee in respect to a contravention shall be acted upon by the Commission where proceedings have been commenced by the employee under this section.

Idem

- (5) An employee is not entitled to the recovery and enforcement referred to in subsection (1) if an appeal or grievance procedure is provided for the employee under the *Civil Service Act* R.S.P.E.I. 1988, Cap. C-8 the *Education Act* R.S.P.E.I. 1988, Cap. E-02 or the *Labour Act* R.S.P.E.I. 1988, Cap. L-1 or where the employee is a party to a proceeding before an arbitration board constituted under the *Arbitration Act* R.S.P.E.I. 1988, Cap. A-16 and the arbitration board has jurisdiction to adjudicate on the question of rates of pay. 1975,c.72,s.7; 2016,c.6,s.122.

8. Employees' organizations

No employees' organization shall exclude any individual from full membership or expel or suspend any of its members on a discriminatory basis or discriminate against any individual in regard to his employment by an employer. 1975,c.72,s.8.

9. Professional business or trade association membership

No business, professional or trade association shall exclude any individual from full membership or expel or suspend any of its members on a discriminatory basis. 1975,c.72,s.9.

10. Person or agency carrying out public functions

- (1) No person or agency carrying out a public function, including fire protection or hospital services, through the use in whole or in part of volunteers, shall exclude, expel or limit any volunteer applicant on a discriminatory basis.

Religious and non-profit organizations excepted

- (2) This section does not apply 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. *1975, c.72, s.10.*

11. Application to insurance and retirement plans

The provisions of this Act relating to discrimination in relation to age or disability do not affect the operation of any genuine retirement or pension plan or any genuine group or employee insurance plan. *1975, c.72, s.11; 1980, c.26, s.2; 1985, c.23, s.3; 2008, c.18, s.4; 2012, c.19, s.2.*

12. Discrimination in advertising prohibited

- (1) No person shall publish, display or broadcast, or permit to be published, displayed or broadcasted on lands or premises, or in a newspaper or through a radio or television broadcasting station or by means of any other medium, any notice, sign, symbol, implement or other representation indicating discrimination or an intention to discriminate against any person or class of persons.

Free expression of opinion

- (2) Nothing in this section shall be deemed to interfere with the free expression of opinion upon any subject in speech or in writing. *1975, c.72, s.12.*

13. Discrimination because of association

No person shall discriminate against an individual or a class of individuals in any manner prescribed by this Act because of the age, colour, creed, disability, ethnic or national origin, family status, gender expression, gender identity, marital status, political belief, race, religion, sex, sexual orientation, or source of income of any person with whom the individual or the class of individuals associates. *1975, c.72, s.13; 1980, c.26, s.3; 1985, c.23, s.3; 1989(2nd), c.3, s.2; 2008, c.18, s.5; 2012, c.19, s.2; 2013, c.15, s.1.*

14. Exceptions to Act

- (1) Sections 2 to 13 do not apply
- (a) to the display of a notice, sign, symbol, emblem, or other representation displayed to identify facilities customarily used by one sex;
 - (b) to display or publication by or on behalf of an organization that
 - (i) is composed exclusively or primarily of persons having the same political or religious beliefs, nationality, ancestry, or place of origin, and
 - (ii) is operated as a non-profit organization, of a notice, sign, symbol, emblem, or other representation indicating a purpose or membership qualification of the organization;

- (c) to philanthropic, fraternal or service groups, associations or organizations, to the extent that they discriminate on the basis of sex in their qualifications for membership;
- (d) to a refusal, limitation, specification, or preference based on a genuine qualification; or
- (e) to trusts, deeds, contracts, agreements or other instruments entered into before this Act comes into force.

Complainant, onus of proof

- (2) The onus of proving that a qualification is a genuine qualification is on the employer or other person asserting that the qualification is a genuine qualification. *1975,c.72,s.14.*

15. Protection of repudiation

No person shall evict, discharge, suspend, 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, inquiry or prosecution of a complaint or other proceeding under this Act. *1975,c.72,s.15.*

15.1 Social assistance benefits

Nothing in this Act prevents the Government of Prince Edward Island or an agency of the Crown, from requiring that persons be in receipt of, or eligible for, social assistance benefits in order to qualify for access to accommodations, services, programs, or facilities directed at assisting persons in receipt of, or eligible for, social assistance benefits. *1998,c.92,s.3; 2002,c.29,s.22; 2005,c.39,s.12.*

PART II — HUMAN RIGHTS COMMISSION

16. Human Rights Commission, established

- (1) The Prince Edward Island Human Rights Commission is hereby established; the Commission is a corporation.

Composition

- (2) The Legislative Assembly, on the recommendation of the Standing Committee on Social Development, shall
 - (a) appoint not fewer than three and not more than nine members to the Commission; and
 - (b) designate one of the members as Chairperson of the Commission.

Chair appointed in absence of Chairperson

- (2.1) Where the Chairperson is not a member of a Human Rights Panel appointed pursuant to this Act, the Chairperson shall designate one member of the Human Rights Panel to act as Chair for the purposes of carrying out the duties of the Human Rights Panel.

Inability of Chairperson to act

- (2.2) Where the Chairperson of the Commission is unable to act for any reason, the Chairperson may designate another member of the Commission to act for the Chairperson in respect of any particular matter before the Commission.

Powers of appointee

- (2.3) A member of the Commission designated under subsection (2.2) shall have all the powers and perform all the duties of the Chairperson of the Commission.

Term of office

- (3) Each Commissioner
- (a) shall hold office for a term not exceeding three years, as prescribed in the Commissioner's appointment; and
 - (b) is eligible for *re*-appointment.

Remuneration and reimbursement

- (4) Each Commissioner who is not a member of the civil service shall be paid such remuneration as the Lieutenant Governor in Council determines.

Vacancies, filling

- (5) Whenever a Commissioner ceases to hold office, the Lieutenant Governor in Council may appoint a person to fill the vacancy. *1975,c.72,s.16; 1997(2nd),c.65,s.2; 2003,c.9,s.1; 2008,c.18,s.6.*

17. Commission responsible to Minister

The Commission is responsible to the Minister for the administration of this Act. *1975,c.72,s.17.*

18. Powers and duties of Commission

The Commission shall

- (a) administer and enforce this Act;
- (b) develop a program of public information and education in the field of human rights to forward the principle that every person is free and equal in dignity and rights without regard to age, colour, creed, disability, ethnic or national origin, family status, gender expression, gender identity, marital status, political belief, race, religion, sex, sexual orientation, or source of income;
- (c) advise the government on suggestions, recommendations and requests made by private organizations and individuals;
- (d) report as required by the Minister on the business and activities of the Commission;
- (e) consider, investigate or administer any matter or activity referred to the Commission by the Lieutenant Governor in Council or the Minister. *1975,c.72,s.18; 1980,c.26,s.4; 1985,c.23,s.3; 1989(2nd), c.3,s.2; 2008,c.18,s.7; 2012,c.19,s.2; 2013,c.15,s.1.*

19. Staff

- (1) The Commission may appoint and employ such officers and employees as are required for the proper conduct of its business and may determine their functions, conditions of employment and remuneration.

Application of Civil Service Act

- (2) The *Civil Service Act* does not apply to the appointment or employment of any person pursuant to subsection (1). *1985,c.23,s.4.*



20. Approved programs

The Commission may approve programs of government, private organizations or persons designed to promote the welfare of any class of individuals, and any approved program shall be deemed not to be a violation of the prohibitions of this Act. *1975,c.72,s.19.*

21. Commission budget

- (1) The Commission shall present a yearly budget to the Minister estimating the expenditure of the Commission on the various programs and activities.

Expenses, payment

- (2) All costs, charges and expenses incurred by the Commission in administering this Act shall be paid out of money appropriated by the Legislature therefor. *1975,c.72,s.20.*

PART III — ADMINISTRATION**22. Who may make complaint**

- (1) Any person, except the Commission or an employee of the Commission, who has reasonable grounds for believing that a person has contravened this Act may make a complaint to the Commission.

Consent of alleged victim

- (1.1) Where the person making the complaint pursuant to subsection (1) is not the person in respect of whom this Act is alleged to have been contravened, the Executive Director may refuse to accept the complaint unless the person in respect of whom the Act is alleged to have been contravened consents, in writing, to the filing of the complaint, and the complainant has filed a copy of that written consent with the Commission.

Complaint within one year

- (2) A complaint made pursuant to subsection (1) shall
- (a) be in writing in a form acceptable to the Commission; and
 - (b) be made within one year after the alleged contravention of the Act occurred.

Executive Director investigates

- (3) The Executive Director shall investigate and attempt to effect settlement of the complaint.

If complaint without merit

- (4) Notwithstanding subsection (3), the Executive Director may, at any time,
- (a) dismiss a complaint if the Executive Director considers that the complaint is without merit;
 - (b) discontinue further action on the complaint if, in the opinion of the Executive Director, the complainant has refused to accept a proposed settlement that is fair and reasonable;
 - (c) discontinue further action on the complaint if it could be dealt with more appropriately by an alternate method of resolution under any other Act, or if grievance or other review procedures have not been exhausted; or
 - (d) report to the Chairperson of the Commission that the parties are unable to settle the complaint.

Decision respecting dismissal

- (5) The Executive Director shall forthwith serve notice of a decision under subsection (4) upon the complainant and the person against whom the complaint was made. *1997(2nd),c.65,s.3; 2012,c.19,s.3.*

22.1 Annual Report

- (1) The Commission shall make an annual report to the Minister in such form and at such time as the Minister may direct.

Submission of annual report to the Legislative Assembly

- (2) The Minister shall lay a copy of the annual report before the Legislative Assembly within fifteen days after it is submitted to him or her or, if the Legislative Assembly is not then sitting, within fifteen days of the opening of the next session of the Legislative Assembly. *2008,c.18,s.8*

23. Powers of investigation

- (1) For the purposes of an investigation under section 22, the Executive Director may do any or all of the following:
- (a) subject to subsection (2), enter any place at any reasonable time to examine it;
 - (b) make inquiries orally or in writing of any person who has or may have information relevant to the subject-matter of the investigation;
 - (c) demand the production for examination of records and documents, including electronic records and documents, that are or may be relevant to the subject-matter of the investigation;
 - (d) on giving a receipt for them, remove any of the things referred to in clause (c) for the purpose of making copies of or extracts from them,

and all information obtained pursuant to this subsection shall be kept in confidence, except as required for the purposes of this Act.

Entry for investigation

- (2) The Executive Director may enter and examine a room or place actually used as a dwelling only if
- (a) the owner or person in possession of it consents to the entry and examination; or
 - (b) the entry and examination is authorized by a judge under section 24. *1997(2nd),c.65,s.3.*

24. Court order for entry

- (1) Where a judge is satisfied on the Executive Director's evidence under oath that there are reasonable grounds for the Executive Director to exercise a power under section 23 and that
- (a) in the case of a room or place actually used as a dwelling, the Executive Director cannot obtain the consent under clause 23(2)(a), or, having obtained the consent, the Executive Director has been obstructed or interfered with in conducting the investigation;
 - (b) the Executive Director has been refused entry to a place other than a dwelling;
 - (c) a person refuses or fails to answer inquiries under clause 23(1)(b); or
 - (d) a person upon whom a demand is made under clause 23(1)(c) refuses or fails to comply with the demand or to permit the removal of a thing under clause 23(1)(d);

the judge may make any order that the judge considers necessary to enable the Executive Director to exercise the powers set out in subsection 23(1).

Application may be ex parte

- (2) An application under subsection (1) may be made with or without notice to the parties to the complaint.

Items to be returned in 48 hours

- (3) If the Executive Director removes anything referred to in clause 23(1)(c), the Executive Director may make copies of or extracts from the thing that was removed and shall return it to the place from which it was removed within 48 hours after removing it. *1997(2nd),c.65,s.3.*

25. Review of dismissal of complaint

- (1) A complainant may, not later than 30 days after receiving notice of the dismissal of a complaint or of a discontinuance pursuant to subsection 22(4), by notice in writing to the Commission request a review of the Executive Director's decision by the Chairperson of the Commission.

Notice to person complained against

- (2) The Commission shall serve a copy of the request for review upon the person against whom the complaint was made.

Chairperson's power of review

- (3) The Chairperson of the Commission shall
- (a) review the Executive Director's decision and decide whether
 - (i) the complaint should have been dismissed; or
 - (ii) the proposed settlement was fair and reasonable as the case may be; and
 - (b) forthwith serve notice of the Chairperson's decision upon the complainant and on the person against whom the complaint was made.

Decision final and binding

- (4) A decision of the Chairperson under subsection 25(3) is final and binding upon the parties. *1997(2nd),c.65,s.3.*

26. Complaints to be dealt with by Panel

- (1) The Chairperson shall appoint a Human Rights Panel to deal with a complaint in the following circumstances:
- (a) where the Chairperson receives a report from the Executive Director that the parties are unable to settle the complaint; or
 - (b) where the Chairperson decides under subsection 25(3) that the complaint should not have been dismissed or that the proposed settlement was not fair and reasonable.

Composition of Panel

- (2) A Human Rights Panel shall, unless special circumstances warrant the appointment of additional members, consist of one member of the Commission.

Chairperson may sit on Human Rights Panel

- (3) Subject to subsection (4), the Chairperson may sit on a Human Rights Panel either as a single member or with other members.

Chairperson ineligible, when

- (4) Where the Chairperson has conducted a review under section 25 in respect of a complaint, the Chairperson is not eligible to sit on the Human Rights Panel dealing with that complaint.

Powers under Public Inquiries Act

- (5) A Human Rights Panel and each member has all the powers of a commissioner under the *Public Inquiries Act* R.S.P.E.I. 1988, Cap. P-31.

Decision of majority

- (6) If a Human Rights Panel consists of more than one person, the decision of the majority is the decision of the Panel. *1997(2nd),c.65,s.3.*

27. Parties

The following persons are parties to a proceeding before a Human Rights Panel:

- (a) the Executive Director;
- (b) the complainant;
- (c) any person named in the complaint who is alleged to have been dealt with in a manner contrary to this Act;
- (d) any person named in the complaint who is alleged to have contravened this Act;
- (e) any other person specified by the Human Rights Panel, on a notice given by the Panel, and after the prospective party has been given the opportunity to be heard by the Panel if the person objects to being made a party. *1997(2nd),c.65,s.3.*

28. Minister's order

Repealed by *1997(2nd),c.65,s.3.*

28.1 Carriage of the proceeding

The Executive Director has carriage of the proceeding before a Human Rights Panel, except where the Chairperson of the Commission has made a decision under subsection 25(3), and in such a case the complainant has carriage of the proceeding. *1997(2nd),c.65,s.4.*

28.2 Right to counsel

- (1) The parties to a proceeding before a Human Rights Panel are entitled to appear and be represented by counsel at a hearing held by the Panel.

Evidence

- (2) Evidence may be given before a Human Rights Panel in any manner that the Panel considers appropriate, and the Panel is not bound by the rules of law respecting evidence in civil proceedings.

Proceeding where person absent

- (3) A Human Rights Panel, on proof of service of notice of a hearing on the person against whom the complaint was made, may proceed with the hearing in the absence of that person and decide on the matter being heard in the same manner as though the person was in attendance.

Hearing public, except

- (4) A hearing before a Human Rights Panel shall be open to the public unless, on the application of any party, the Human Rights Panel decides that it would be advisable to hold the hearing in private
- (a) because of the confidential nature of the matter to be heard; or
 - (b) because of the potential adverse effect on any of the parties, other than the person against whom the complaint was made. *1997(2nd), c.65, s.4.*

28.3 Stated case

A Human Rights Panel may, at any stage of the proceedings, refer a stated case under the rules of court to the Supreme Court, on any question of law arising in the course of the proceedings, and may adjourn the proceedings until the decision is rendered on the stated case. *1997(2nd), c.65, s.4; 2008, c.20, s.72(42).*

28.4 Powers of Panel

- (1) A Human Rights Panel
- (a) shall, if it finds that a complaint is without merit, order that the complaint be dismissed;
 - (a.1) may allow the complainant to withdraw a complaint after some evidence has been presented at a Panel hearing; and
 - (b) may, if it finds that a complaint has merit in whole or in part, order the person against whom the finding was made to do any or all of the following:
 - (i) to cease the contravention complained of;
 - (ii) to refrain in future from committing the same or any similar contravention;
 - (iii) to make available to the complainant or other person dealt with contrary to this Act, the rights, opportunities or privileges that the person was denied contrary to this Act;
 - (iv) to compensate the complainant or other person dealt with contrary to this Act for all or any part of wages or income lost or expenses incurred by reason of the contravention of this Act;
 - (v) to take any other action the Panel considers proper to place the complainant or other person dealt with contrary to this Act in the position the person would have been in, but for the contravention.

Compensation formula

- (2) Repealed by *2008, c.18, s.9.*

Application of subsection (2)

- (3) Repealed by *2008, c.18, s.9.*

Contract for service

- (4) Repealed by *2008, c.18, s.9.*

Compensation comprehensive and exhaustive

- (5) Repealed by 2008,c.18,s.9.

Costs

- (6) A Human Rights Panel may make any order as to costs that it considers appropriate.

Decision served on parties

- (7) A Human Rights Panel shall serve a copy of its decision, including the findings of fact upon which the decision was based and the reasons for the decision, on the parties. 1997(2nd),c.65,s.4; 2008,c.18,s.9.

28.5 New evidence

- (1) If there is new evidence available that was not available or that for good reason was not presented before the Human Rights Panel in the first instance, the Panel may, on the application of any party or on its own motion, reconsider any matter considered by it.

Same powers on reconsideration

- (2) For the purposes of a reconsideration pursuant to subsection (1), the Human Rights Panel has all of the same powers and duties as it had on the initial hearing.

Not later than 30 days

- (3) Reconsideration of a matter pursuant to subsection (1) shall be commenced not later than 30 days after the Panel's decision in the first instance. 1997(2nd),c.65,s.4.

28.6 Settlement not more than one year prior to discriminatory act

Subject to subsection 28.4(2), no settlement effected pursuant to this Act and no order made by a Human Rights Panel may compensate a person for wages or income lost or expenses incurred prior to one year before the date of the discriminatory act on which the person's complaint is based. 1997(2nd),c.65,s.4.

28.7 Order filed in court

An order made by a Human Rights Panel may be filed with the Registrar of the Court of Appeal and the Supreme Court in the appropriate division, and upon being so entered it is enforceable in the same manner as an order of the Supreme Court. 1997(2nd),c.65,s.4; 2008,c.20,s.72(42).

28.8 Decision final and binding

A decision of a Human Rights Panel is final and binding upon the parties. 1997(2nd),c.65,s.4.

29. Offences and penalties

Every person who does anything prohibited by this Act or who refuses or neglects to comply with any order made under this Act is guilty of an offence and is liable on summary conviction

- (a) if an individual, to a fine of not less than \$100 and not exceeding \$500; and
(b) if a person other than an individual, to a fine of not less than \$200 and not exceeding \$2,000. 1975,c.72,s.28; 1994,c.58,s.6.



30. Defect in form or procedure

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

Evidence required for conviction

- (2) In any prosecution under this Act it shall be sufficient for conviction if a reasonable preponderance of evidence supports a charge that the accused has done anything prohibited by this Act or has refused or neglected to comply with an order made under this Act. *1975, c.72, s.29.*

31. Organizations deemed corporations

A prosecution for an offence under this Act may be brought against an employers' organization, employees' organization, business, professional or trade association in the name of the organization or association, and for the purpose of any prosecution these shall be deemed to be corporations and any act or thing done or omitted by an officer or agent within the scope of his authority to act on behalf of the organization or association shall be deemed to be an act or thing done or omitted by the organization or association. *1975, c.72, s.30.*

32. Order enjoining person from continuing offence

- (1) Where a person has been convicted of an offence under this Act, the Minister may apply to a judge of the Supreme Court for an order enjoining the person from continuing the offence.

Jurisdiction of court

- (2) The judge in his discretion may make such order and the order may be enforced in the same manner as any other order or judgment of the Supreme Court. *1975, c.72, s.31.*

33. Promotion of Act

- (1) The Lieutenant Governor in Council may undertake or cause to be undertaken such inquiries and other measures as appear advisable or desirable to promote the purposes of this Act.

Regulations

- (2) The Commission may, with the approval of the Lieutenant Governor in Council, make regulations respecting any matter necessary or desirable for the attainment of the objects and purposes of this Act, and without limiting the generality thereof, may
- (a) prescribe forms;
 - (b) prescribe and enumerate qualifications that for the purposes of this Act are genuine qualifications having the effect under section 14 of exempting certain practices or activities from the prohibitions against discrimination;
 - (c) identify and approve specific or general job descriptions or classifications for which a genuine qualification exists;
 - (d) make regulations respecting practice and procedure before a Human Rights Panel. *1975, c.72, s.32 1997(2nd), c.65, s.5.*

34. Crown bound

This Act binds the Crown in right of Prince Edward Island and every servant and agent of the Crown. *1975, c.72, s.33.*