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c 132 Fair Employment Practices Act

Ontario

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CHAPTER 132

The Fair Employment Practices Act

Whereas it is contrary to public policy in Ontario to discriminate against men and women in respect of their employment because of race, creed, colour, nationality, ancestry or place of origin; whereas it is desirable to enact a measure designed to promote observance of this principle; and whereas to do so is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations;

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

1. In this Act,Interpre-
tation

- (a) "Director" means the Director of the Fair Employment Practices Branch of the Department of Labour;
- (b) "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;
- (c) "employers' organization" means an organization of employers formed for purposes that include the regulation of relations between employers and employees;
- (d) "Minister" means the Minister of Labour;
- (e) "person", in addition to the extended meaning given it by *The Interpretation Act*, includes employment agency, employers' organization and trade union;
- (f) "trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers. 1951, c. 24, s. 1.

R.S.O. 1960,
c. 191**2. This Act does not apply,**Where Act
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 oper-

ated 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. 1951, c. 24, s. 2.

Employers
not to dis-
criminate
in employ-
ment
practices

3. 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 in regard to employment or any term or condition of employment because of his race, creed, colour, nationality, ancestry or place of origin. 1951, c. 24, s. 3.

Membership
in trade
union

4. 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. 1951, c. 24, s. 4.

Employment
applications
and adver-
tisements
not to dis-
criminate

5. 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. 1951, c. 24, s. 5.

Conciliation
officer,
appoint-
ment

6.—(1) The Minister may on the recommendation of the Director designate a conciliation officer to inquire into the complaint of any person that he has been refused employment, discharged or discriminated against contrary to section 3, or that he has been excluded, expelled, suspended or discriminated against contrary to section 4, or that a person has used or circulated any form or published any advertisement or made any inquiry contrary to section 5.

Form of
complaint

(2) Every such complaint shall be in writing on the form prescribed by the Director and shall be mailed or delivered to him at his office.

Conciliation
officer,
duties

(3) The conciliation officer shall forthwith after he is appointed inquire into the complaint and endeavour to effect a settlement of the matter complained of and shall report the results of his inquiry and endeavours to the Director. 1951, c. 24, s. 6, *amended*.

Commission,
appoint-
ment

7.—(1) If the conciliation officer is unable to effect a settlement of the matter complained of, the Minister may, on the recommendation of the Director, appoint a commission composed of one or more persons and shall forthwith communicate

the names of the members to the parties and thereupon it shall be presumed conclusively that the commission was appointed in accordance with this Act, and no order shall be made or process entered or proceeding taken in any court, whether by way of injunction, declaratory judgment, certiorari, mandamus, prohibition, quo warranto or otherwise to question the appointment of the commission, or to review, prohibit or restrain any of its proceedings.

(2) The commission has all the powers of a conciliation board under section 28 of *The Labour Relations Act*. R.S.O. 1960, c. 202. ^{powers}

(3) The commission 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 Director the course that ought to be taken with respect to the complaint, which may include reinstatement with or without compensation for loss of earnings and other benefits. ^{duties}

(4) If the commission is composed of more than one person, the recommendations of the majority are the recommendations of the commission. ^{Majority recommendations}

(5) After a commission has made its recommendations, the Director may direct it to clarify or amplify any of them and they shall be deemed not to have been received by the Director until they have been so clarified or amplified. ^{Clarification of recommendations}

(6) The Minister on the recommendation of the Director may issue whatever order he deems necessary to carry the recommendations of the commission into effect and the order is final and shall be complied with in accordance with its terms. ^{Minister's order}

(7) Each member of a commission shall be remunerated for his services at the same rate as the chairman of a conciliation board appointed under *The Labour Relations Act*. 1951, c. 24, s. 7. ^{Remuneration}

8.—(1) Every person who contravenes any provision of this Act or any order made under this Act is guilty of an offence and on summary conviction is liable, ^{Offences}

(a) if an individual, to a fine of not more than \$50;
or

(b) if a corporation, trade union, employers' organization or employment agency, to a fine of not more than \$100.

(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. 1951, c. 24, s. 8. ^{Disposition of fines}

Style of
prosecutions

9. 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 union or organization shall be deemed to be an act or thing done or omitted by the union or organization. 1951, c. 24, s. 9.

Consent to
prosecution

10.—(1) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Minister on the recommendation of the Director.

Idem

(2) The Director shall not make such a recommendation if he is satisfied that the act complained of was done in good faith solely for the purpose of preserving the security of Canada or a part thereof or of a state allied or associated with Canada in connection with a national emergency or a war, invasion or insurrection, real or apprehended. 1951, c. 24, s. 10.
