

This archived revised Act states the law as of December 31, 1996 and includes provisions enacted and in force by that date. For the most current information, click [here](#). The Revised Statutes of British Columbia, 1996 were brought into force on April 21, 1997 (B.C. Reg. 92/97).

HUMAN RIGHTS CODE [RSBC 1996] CHAPTER 210

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Section 001 — Definitions

1 In this Code:

"age" means an age of 19 years or more and less than 65 years;

"council" means the British Columbia Council of Human Rights;

"discrimination" includes the conduct described in section 7, 8 (1) (a), 9 (a) or (b), 10 (1) (a), 11, 13 (1) (a) or (2), 14 (a) or (b);

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

"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;

"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 an organization, other than a trade union or employers' organization, in which membership is a prerequisite to carrying on a trade, occupation or profession;

"person" includes an employer, an employment agency, an employers' organization, 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.

Section 002 — Section to be added

2 [*Section 2 to be added Jan 1/97 — Supplement*]

Section 003 — Section to be added

3 [*Section 3 to be added Jan 1/97 — Supplement*]

Section 004 — Section to be added

4 [*Section 4 to be added Jan 1/97 — Supplement*]

Section 005 — Section to be added

5 [Section 5 to be added Jan 1/97 — Supplement]

Section 006 — Section to be added

6 [Section 6 to be added Jan 1/97 — Supplement]

Part 1 — Discriminatory Practices Prohibited

Section 007 — Discriminatory publication

7 (1) A person must not publish, issue or display, or cause to be published, issued or displayed, any statement, publication, notice, sign, symbol, emblem or other representation that

- (a) indicates discrimination or an intention to discriminate against a person or a group or class of persons, or
- (b) is likely to expose a person or a group or class of persons to hatred or contempt because of the race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age of that person or that group or class of persons.

(2) Subsection (1) does not apply to a private communication or to a communication intended to be private.

Section 008 — Discrimination in accommodation, service and facility

8 (1) A person must not, without a bona fide and reasonable justification,

- (a) deny to a person or class of persons any accommodation, service or facility customarily available to the public, or
- (b) discriminate against a person or class of persons regarding any accommodation, service or facility customarily available to the public

because of the race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex or sexual orientation of that person or class of persons.

(2) A person does not contravene this section by discriminating

- (a) on the basis of sex, if the discrimination relates to the maintenance of public decency or to the determination of premiums or benefits under contracts of life or health insurance, or
- (b) on the basis of physical or mental disability, if the discrimination relates to the determination of premiums or benefits under contracts of life or health insurance.

Section 009 — Discrimination in purchase of property

9 A person must not

- (a) deny to a person or class of persons the opportunity to purchase a commercial unit or dwelling unit that is in any way represented as being available for sale,
- (b) deny to a person or class of persons the opportunity to acquire land or an interest in land, or
- (c) discriminate against a person or class of persons regarding a term or condition of the purchase or other acquisition of a commercial unit, dwelling unit, land or interest in land

because of the race, colour, ancestry, place of origin, religion, marital status, physical or mental disability, sexual orientation or sex of that person or class of persons.

Section 010 — Discrimination in tenancy premises

10 (1) A person must not

(a) deny to a person or class of persons the right to occupy, as a tenant, space that is represented as being available for occupancy by a tenant, or

(b) discriminate against a person or class of persons regarding a term or condition of the tenancy of the space,

because of the race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age of that person or class of persons, or of any other person or class of persons.

(2) Subsection (1) does not apply in the following circumstances:

(a) if the space is to be occupied by another person who is to share, with the person making the representation, the use of any sleeping, bathroom or cooking facilities in the space;

(b) as it relates to family status or age,

(i) if the space is a rental unit in residential premises in which every rental unit is reserved for rental to a person who has reached 55 years of age or to 2 or more persons, at least one of whom has reached 55 years of age, or

(ii) a rental unit in a prescribed class of residential premises;

(c) as it relates to physical or mental disability, if

(i) the space is a rental unit in residential premises,

(ii) the rental unit and the residential premises of which the rental unit forms part,

(A) are designed to accommodate persons with disabilities, and

(B) conform to the prescribed standards, and

(iii) the rental unit is offered for rent exclusively to a person with a disability or to 2 or more persons, at least one of whom has a physical or mental disability.

Section 011 — Discrimination in employment advertisements

11 A person must not publish or cause to be published an advertisement in connection with employment or prospective employment that expresses a limitation, specification or preference as to race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age unless the limitation, specification or preference is based on a bona fide occupational requirement.

Section 012 — Discrimination in wages

12 (1) An employer must not discriminate between employees by employing an employee of one sex for 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 must, subject to factors in respect of pay rates such 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 a 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 the difference.

(4) An employer must not reduce the rate of pay of an employee in order to comply with this section.

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

(a) the action must be commenced no later than 12 months from the termination of the employee's services, and

(b) the action applies only to wages of an employee during the 12 month period immediately before the earlier of the date of the employee's termination or the commencement of the action.

Section 013 — Discrimination in employment

13 (1) A person must not

(a) refuse to employ or refuse to continue to employ a person, or

(b) discriminate against a person regarding employment or any term or condition of employment

because of the race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age of that person or because that person has been convicted of a criminal or summary conviction offence that is unrelated to the employment or to the intended employment of that person.

(2) An employment agency must not refuse to refer a person for employment for any reason mentioned in subsection (1).

(3) Subsection (1) does not apply

(a) as it relates to age, to a bona fide scheme based on seniority, or

(b) as it relates to marital status, physical or mental disability, sex or age, to the operation of a bona fide retirement, superannuation or pension plan or to a bona fide group or employee insurance plan.

(4) Subsections (1) and (2) do not apply with respect to a refusal, limitation, specification or preference based on a bona fide occupational requirement.

Section 014 — Discrimination by unions and associations

14 A trade union, employers' organization or occupational association must not

(a) exclude any person from membership,

(b) expel or suspend any member, or

(c) discriminate against any person or member

because of the race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age of that person or member, or because that person or member has been convicted of a criminal or summary conviction offence that is unrelated to the membership or intended membership.

[Parts 2 to 4 to be Repealed and Replaced as of Jan 1/97 — Supplement]

Part 2 — Council of Human Rights

Section 015 — Council established

- 15** (1) There shall be established a council known as the British Columbia Council of Human Rights consisting of those members appointed by the Lieutenant Governor in Council to hold office during pleasure.
- (2) The Lieutenant Governor in Council shall designate a member of the council as chair.
- (3) The council may, in writing, delegate to one or more of its members or to any other person an administrative function of the council.
- (4) Where a member of the council resigns or where the member's appointment to the council terminates, the member may continue to act as a member of the council in relation to a proceeding that has been commenced under section 14 (1) (c) until the proceeding is completed.
- (5) Each member of the council shall be paid the actual and reasonable expenses incurred by the member in discharging his or her duties as a member of the council, and a member who is not an employee under the *Public Service Act* shall be paid remuneration for his or her services as a member of the council as the Lieutenant Governor in Council orders.

Section 016 — Complaints

- 16** (1) Any person, on the person's own behalf or on behalf of another person or of a group or class of persons, who alleges that any person is discriminating or has discriminated against that person or another person or against a group or class of persons, whether or not a member of that group or class, may file with the council a complaint, in a form satisfactory to the council, giving particulars of the discrimination.
- (2) If a complaint is filed by a person on behalf of another person or a group or class of persons, the council may refuse to deal with the complaint unless satisfied that, as the case may be,
- (a) the person alleged to have been discriminated against consents, or
 - (b) proceeding with the complaint is in the interest of the group or class on behalf of which the complaint is made.
- (3) The council may deal with 2 or more complaints together if it is satisfied that the complaints involve substantially the same issues.
- (4) Subject to section 18, the chair of the council shall investigate a complaint and endeavour to assist the parties to the complaint to achieve a settlement.

Section 017 — Inspection of records or things

- 17** For the purposes of conducting an investigation, the chair of the council may make an examination and inquiry that he or she considers necessary to ascertain whether this Code has been complied with and may
- (a) require a complainant or a person who is alleged to have contravened this Code to disclose, orally or in writing, information respecting the subject matter of the complaint, and
 - (b) require the production of records or things relating to the subject matter of the complaint.

Section 018 — Decision not to proceed with investigation

- 18** (1) The council may decide not to proceed with the investigation of a complaint where it appears to the council that the complaint
- (a) is not within the jurisdiction of the council,
 - (b) could be more appropriately dealt with under another Act,

(c) is trivial, frivolous, vexatious or made in bad faith, or

(d) is based on facts that occurred more than 6 months before the complaint was filed, unless the delay was incurred in good faith and no substantial prejudice will result to any person affected by the delay.

(2) The council shall not decline to proceed with an investigation by reason only that there was no intent by the person against whom the complaint was made to contravene this Code.

(3) Where the council decides not to proceed with an investigation, it shall so inform the complainant in writing.

Section 019 — Procedure after investigation

19 (1) On completion of an investigation, the chair shall

(a) refer the complaint to the council for a determination as to whether the proceeding should be discontinued,

(b) submit a report to the minister, or

(c) designate one member of the council to receive, as specified by the member, written or oral submissions from the complainant and the person alleged to have contravened this Code, and the member of council

(i) where he or she considers the complaint is not justified, shall dismiss the complaint, or

(ii) where he or she considers the complaint is justified, shall make an order described in section 22 (2) (a) and may make an order described in section 22 (2) (b), (c) or (d).

(2) Section 21 (4) and (5) applies where oral submissions are made under subsection (1) (c) of this section.

(3) A member of the council who is designated under subsection (1) (c) has, for the purposes of that subsection,

(a) the privileges and protection of section 12 of the *Inquiry Act*, and

(b) where oral submissions are made under subsection (1) (c), the power of sections 15 and 16 of the *Inquiry Act* given to a commissioner appointed under Part 2 of that Act.

(4) On receipt of a report under subsection (1) (b), the minister shall

(a) refer the complaint to a board of inquiry, or

(b) order that the proceedings be discontinued.

Section 020 — Decision to be communicated in writing

20 A determination under section 19 (1) (a), an order under section 19 (1) (c) (ii) or section 19 (4) or the dismissal of a complaint under section 19 (1) (c) (i) shall be communicated in writing to the complainant and the person who is alleged to have contravened this Code, and, where the proceedings are discontinued or the complaint is dismissed, no further proceedings under this Code shall be taken in relation to the subject matter of the discontinued proceedings or the dismissed complaint.

Part 3 — Board of Inquiry

Section 021 — Board of inquiry

21 (1) A board of inquiry shall consist of one person appointed by the minister.

- (2) A board of inquiry has, for the purposes of a reference under section 19 (4), the power, privileges and protection of sections 12, 15 and 16 of the *Inquiry Act* given to a commissioner appointed under Part 2 of that Act.
- (3) The persons who are entitled to be parties to proceedings before a board of inquiry are
- (a) the complainant,
 - (b) where the complaint was filed under section 16 (2), the person who filed the complaint on behalf of the complainant,
 - (c) the person who is alleged to have contravened this Code, and
 - (d) any other person whom the board of inquiry considers would be directly affected by an order made by it.
- (4) A board of inquiry shall give the parties the opportunity to be represented by counsel, to present relevant evidence, to cross examine witnesses and to make submissions.
- (5) A board of inquiry may receive and accept on oath, affidavit or otherwise, evidence or information that it, in its discretion, considers necessary and appropriate, whether or not the evidence or information would be admissible in a court of law.
- (6) Where a party to a matter before a board of inquiry complains to the minister that the board has failed to proceed expeditiously, the minister may, after consulting the parties and the board, issue an order the minister considers necessary to ensure the matter will be disposed of without further undue delay.

Section 022 — Disposition of complaints

- 22** (1) Where a board of inquiry considers that a complaint is not justified, it shall dismiss the complaint.
- (2) Where a board of inquiry considers that a complaint is justified, it
- (a) shall order the person who contravened this Code to cease the contravention and to refrain from committing the same or a similar contravention,
 - (b) may make a declaratory order that conduct of the type complained of, or similar conduct, is discrimination contrary to this Code,
 - (c) may order the person who contravened this Code to do one or both of the following:
 - (i) take steps, specified in the order, to ameliorate the effects of the discriminatory practice;
 - (ii) adopt and implement an employment equity program or other special program if the evidence at the hearing has disclosed that the person engaged in a pattern or practice that contravenes this Code, and
 - (d) if the person discriminated against is a party to the proceedings, may order the person who contravened this Code to do one or more of the following:
 - (i) make available to the person discriminated against the right, opportunity or privilege that, in the opinion of the board, the person was denied contrary to this Code;
 - (ii) compensate the person discriminated against for all, or a part the board determines, of any wages or salary lost, or expenses incurred, by the contravention;
 - (iii) pay to the person discriminated against an amount that the board of inquiry considers appropriate to compensate that person for injury to dignity, feelings and self respect or to any of them.
- (3) A board of inquiry may make an order as to costs it considers appropriate.

(4) Where an order is made under subsection (2) (a), (c) or (d) or (3) or section 19 (1) (c) (ii), the council 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 and on being filed the order has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of that court.

Part 4 — General

Section 023 — Disclosure

23 (1) A member of the council or any person employed in the administration of this Code shall not be required in any proceedings or otherwise, except before a board of inquiry or in a judicial review respecting a complaint under this Code,

- (a) to give evidence, or
- (b) to produce records

relating to information obtained or a communication received in the investigation of a complaint under this Code.

(2) The minister shall not be compelled to give evidence in any proceedings or otherwise respecting any matter, communication or information connected with the administration or operation of this Code, or otherwise coming to his or her knowledge under or by reason of this Code.

Section 024 — Exemptions

24 (1) 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 physical or mental disability or 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 Code because it is granting a preference to members of the identifiable group or class of persons.

(2) The council may approve any program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups, and any approved program or activity shall be deemed not to be in contravention of this Code.

Section 025 — Special programs

25 (1) It is not discrimination or a contravention of this Code to plan, advertise, adopt or implement an employment equity program, that

- (a) has as its objective the amelioration of conditions of disadvantaged individuals or groups who are disadvantaged because of race, colour, ancestry, place of origin, physical or mental disability or sex, and
- (b) achieves or is reasonably likely to achieve that objective.

(2) The council may

- (a) make general recommendations concerning desirable objectives for, and
- (b) on application give advice and assistance with respect to the adoption or carrying out of

employment equity programs or other special programs or activities that have as their objective the amelioration of conditions of disadvantaged individuals or groups.

Section 026 — Protection

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

Section 027 — Style of cause for proceedings

27 (1) A proceeding under this Code in respect of a trade union, employers' organization or occupational association may be taken in its name.

(2) An act or thing done or omitted by an employee, officer, director, official or agent of any person within the scope of his or her authority shall be deemed to be an act or thing done or omitted by that person.

Section 028 — Technical and other matters

28 (1) No proceeding under this Code is invalid by reason of any defect in form or any technical irregularity.

(2) Where there is a conflict between a provision of this Code and a provision of another enactment, this Code prevails.

Section 029 — Delegation of powers

29 (1) The chair may, in writing, delegate to one or more of the members of the council or to any other person any of his or her powers or duties under this Code, except the power of delegation under this section.

(2) A delegation under this section is revocable at will and does not prevent the exercise at any time by the chair of a power so delegated.

(3) A delegation may be made subject to any terms the chairman considers appropriate.

(4) Where the chair by whom a delegation is made ceases to hold office, the delegation continues in effect so long as the delegate continues in office or until the delegation is revoked by a succeeding chair.

(5) A person purporting to exercise a power of the chair by virtue of a delegation under this section shall, when requested to do so, produce evidence of his or her authority to exercise the power.

Section 030 — Offence Act

30 Section 5 of the *Offence Act* does not apply in respect of this Code or the regulations.

Section 031 — Regulations

31 The Lieutenant Governor in Council may make regulations including but not limited to regulations prescribing the standards for the purpose of section 10.