

1989-90

CHAPTER 23

An Act to amend The Saskatchewan Human Rights Code

(Assented to July 17, 1989)

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

- Short title 1 This Act may be cited as The Saskatchewan Human Rights Code Amendment Act, 1989.
- S.S. 1979, c.S-24.1 amended 2 The Saskatchewan Human Rights Code is amended in the manner set forth in this Act.
- Section 2 amended
"disability" 3(1) The following clause is added after clause 2(d):
 "(d.1) 'disability' means:
 (i) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes:
 (A) epilepsy;
 (B) any degree of paralysis;
 (C) amputation;
 (D) lack of physical co-ordination;
 (E) blindness or visual impediment;
 (F) deafness or hearing impediment;
 (G) muteness or speech impediment; or
 (H) physical reliance on a guide dog, wheelchair or other remedial appliance or device; or
 (ii) any of:
 (A) a condition of mental retardation or impairment;
 (B) a learning disability or a dysfunction in one or more of the processes involved in the comprehension or use of symbols or spoken language; or
 (C) a mental disorder".
- "employee"
"employer" (2) Clauses 2(e) and (f) are repealed and the following substituted:
 "(e) 'employee' means a person employed by an employer;
 "(f) 'employer' means a person employing one or more employees and includes a person acting on behalf of an employer".
- "
"mental disorder" (3) The following clause is added after clause 2(i):
 "(i.1) 'mental disorder' means a disorder of thought, perception, feelings or behaviour that impairs a person's:
 (i) judgment;
 (ii) capacity to recognize reality;

- (iii) ability to associate with others; or
 - (iv) ability to meet the ordinary demands of life".
- (4) Clause 2(n) is repealed.

New section 7 4 Section 7 is repealed and the following substituted:
 Right to freedom from arbitrary imprisonment
 "7 Every person and every class of persons shall enjoy the right to freedom from
 arbitrary arrest or detention".

Section 9 amended 5 Section 9 is amended by striking out "physical".

Section 10 amended 6 Subsection 10(1) is amended by striking out "physical".

Section 11 amended 7 Subsection 11(1) is amended by striking out "physical".

Section 12 amended 8 Subsection 12(1) is amended by striking out "physical".

Section 13 amended 9(1) Subsection 13(1) is amended by striking out "physical".
 (2) Subsection 13(2) is amended:
 (a) by striking out "physical"; and
 (b) by striking out "physically".

Section 14 amended 10 Subsection 14(1) is repealed and the following substituted:
 "(1) No person shall publish or display, or cause or permit to be published or
 displayed, on any lands or premises or in a newspaper, through a television or radio
 broadcasting station or any other broadcasting device or in any printed matter or
 publication or by means of any other medium that he owns, controls, distributes or
 sells, any representation, including, without restricting the generality of the
 foregoing, any notice, sign, symbol, emblem, article, statement or other
 representation:
 (a) tending or likely to tend to deprive, abridge or otherwise restrict the
 enjoyment by any person or class of persons of any right to which he is or they
 are entitled under law; or
 (b) which exposes, or tends to expose, to hatred, ridicules, belittles or
 otherwise affronts the dignity of any person, any class of persons or a group of
 persons;
 because of his or their race, creed, religion, colour, sex, marital status, disability, age,
 nationality, ancestry or place of origin".

Section 15 amended

11 Section 15 is amended:

- (a) by adding ", disability" after "marital status" in subsection (1); and
- (b) by adding the following subsections after subsection (1):

"(1.1) The right pursuant to subsection (1) does not apply to discrimination on the basis of disability within the meaning of subclause 2(d.1)(ii) where a person refuses to contract with another person who does not have the legal capacity to contract.

"(1.2) The right pursuant to subsection (1) is not infringed where:

- (a) a contract of automobile, life, accident or sickness or disability insurance;
- (b) a contract of group insurance between an insurer and an association or person;
- (c) a life annuity;
- (d) a pension contract; or
- (e) any contract other than one mentioned in clauses (a) to (d);

is prescribed in the regulations as a contract or one of a category of contracts that differentiates or makes a distinction, exclusion or preference on reasonable and bona fide grounds because of disability.

"(1.3) The Lieutenant Governor in Council may make regulations prescribing contracts or categories of contracts for the purposes of subsection (1.2)".

Section 16 amended

12 Section 16 is amended:

- (a) by striking out "physical":
 - (i) in subsection (1);
 - (ii) in subsection (2); and
 - (iii) in subsection (3); wherever it appears;
- (b) by repealing subsection (6);
- (c) by striking out "physical" in subsection (7) wherever it appears; and
- (d) by adding the following subsections after subsection (7):

"(8) This section does not prohibit an employer from refusing to employ or refusing to continue to employ a person for reasons of any prohibited ground of discrimination where the employee is:

- (a) employed in a private home; or
- (b) living in the home of his employer.

"(9) The provisions of this section shall not be construed to prohibit distinctions in terms or conditions of employment where those distinctions are permitted by virtue of The Labour Standards Act or the regulations made pursuant to that Act.

"(10) This section does not prohibit an exclusively non-profit charitable, philanthropic, fraternal, religious, racial or social organization or corporation

that is primarily engaged in serving the interests of persons identified by their race, creed, religion, colour, sex, marital status, disability, age, nationality, ancestry or place of origin from employing only or giving preference in employment to persons similarly identified if the qualification is a reasonable and bona fide qualification because of the nature of the employment".

Section 17 amended

13 Section 17 is amended by striking out "physical".

Section 18 amended

14 Section 18 is amended by striking out "physical".

Section 19 amended

15 Section 19 is amended by striking out "physical":
 (a) in clause (a); and
 (b) in clause (b).

Section 25 amended

16 Section 25 is amended by striking out "physical":
 (a) in clause (a); and
 (b) in clause (c).

Section 28 amended

17 Subsections 28(4) to (8) are repealed.

New section 28.1
 Search and seizure

18 The following section is added after section 28:

"28.1(1) For the purposes of inquiry pursuant to subsection 28(1):

(a) the commission; or

(b) any person authorized by the commission;

may, with the consent of the owner or occupier, enter into any premises that in the opinion of the commission or the person authorized by the commission may provide information relating to the inquiry.

"(2) Where permission to enter a premises is denied by an owner or occupier pursuant to subsection (1), the commission or any person authorized by the commission shall not enter into the premises unless authorized to do so by a warrant issued pursuant to subsection (3).

"(3) A justice of the peace or judge of the Provincial Court of Saskatchewan, if satisfied by information on oath that access to premises is required for the purposes of an inquiry pursuant to section 28(1) may issue a warrant authorizing the commission or a person authorized by the commission to enter and view those premises.

"(4) Every warrant issued pursuant to subsection (3) shall be executed between sunrise and sunset unless the judge otherwise directs.

"(5) For the purposes of an inquiry pursuant to subsection 28(1), the commission or any person authorized by the commission may at any reasonable time:

- (a) require the production of books, documents, correspondence, records or other papers that related or may relate to the complaint;
- (b) make any inquiries relating to the complaint, of any person, in writing or orally; and
- (c) subject to subsection (6), on giving a receipt for books, documents, correspondence, records or other papers, remove any books, documents, correspondence, records or other papers examined pursuant to this section for the purpose of making copies or extracts of those books, documents, correspondence, records or other papers.

"(6) The commission or any person authorized by the commission shall:

- (a) carry out the copying of books, documents, correspondence, records or papers removed pursuant to clause (5)(c) with reasonable dispatch; and
- (b) promptly return the books, documents, correspondence, records or papers after the copying to the person who produced or furnished them.

"(7) Where any person has refused or failed to comply with a demand, requirement or request pursuant to subsection (5), the commission or any person designated by the commission on application *ex parte*, may request a justice of the peace or a judge of the Provincial Court of Saskatchewan to grant an order requiring that person to immediately produce those items to the Commission or its designate, and the judge may make any other order that he considers necessary to enforce the provisions of subsection (5).

"(8) No person shall hinder, obstruct, resist, molest or interfere with the commission or any person designated by the commission, or attempt to hinder, obstruct, resist, molest or interfere with the commission or its designate, in the investigation of a complaint under this Act or any other Act administered by the commission".

Section 31 amended

19(1) Subsection 31(7) is amended by adding ", (9.1)" after "(9)".

(2) Subsection 31(9) is repealed and the following substituted:

"(9) Where:

- (a) an inquiry is based on a complaint regarding discrimination on the basis of disability; and
- (b) the board of inquiry finds that the complaint is substantiated but that the premises, facilities or services of the person found to be engaging or to have engaged in discrimination:
 - (i) impede physical access to the premises, facilities or services by; or
 - (ii) lack proper amenities for;
 persons suffering from the disability that was the subject of the inquiry;

the board of inquiry shall make an order so indicating and include in the order any recommendations that it considers appropriate.

"(9.1) Where the person found to be engaging in or to have engaged in the discrimination establishes that the cost or business inconvenience that would be occasioned in the provision of those amenities or physical access would constitute, in the opinion of the board, an undue hardship, the board of inquiry shall not make an order pursuant to subsection (7)".

Section 47 amended

20 Subsection 47(1) is amended by striking out "physical".

Coming into force

21(1) Subject to subsection (2), this Act comes into force on the day of assent.

(2) Section 11 of this Act comes into force on a day to be fixed by proclamation of the Lieutenant Governor.