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Human Rights Code

R.S.O. 1990, CHAPTER H.19

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Amended by: 1993, c. 27, Sched.; 1993, c. 35, s. 56; 1994, c. 10, s. 22; 1994, c. 27, s. 65; 1995, c. 4, s. 3; 1997, c. 16, s. 8; 1997, c. 24, s. 212; 1999, c. 6, s. 28; 2001, c. 13, s. 19; 2001, c. 32, s. 27; 2002, c. 18, Sched. C; 2005, c. 5, s. 32; 2005, c. 18, s. 17; 2005, c. 29, s. 1; 2006, c. 19, Sched. B, s. 10; 2006, c. 21, Sched. F, s. 136; 2006, c. 30; 2006, c. 35, Sched. C, ss. 54, 132.

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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 public policy in Ontario to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination that is contrary to law, and having as its aim the creation of a climate of understanding and mutual respect for the dignity and worth of each person so that each person feels a part of the community and able to contribute fully to the development and well-being of the community and the Province;

And Whereas these principles have been confirmed in Ontario by a number of enactments of the Legislature and it is desirable to revise and extend the protection of human rights in Ontario;

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

PART I FREEDOM FROM DISCRIMINATION

Services

1. Every person has a right to equal treatment with respect to services, goods and facilities, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability. R.S.O. 1990, c. H.19, s. 1; 1999, c. 6, s. 28 (1); 2001, c. 32, s. 27 (1); 2005, c. 5, s. 32 (1).

Accommodation

2. (1) Every person has a right to equal treatment with respect to the occupancy of accommodation, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status, disability or the receipt of public assistance. R.S.O. 1990, c. H.19, s. 2 (1); 1999, c. 6, s. 28 (2); 2001, c. 32, s. 27 (1); 2005, c. 5, s. 32 (2).

Harassment in accommodation

[\(2\)](#) Every person who occupies accommodation has a right to freedom from harassment by the landlord or agent of the landlord or by an occupant of the same building because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, age, marital status, family status, disability or the receipt of public assistance. R.S.O. 1990, c. H.19, s. 2 (2); 1999, c. 6, s. 28 (3); 2001, c. 32, s. 27 (1); 2005, c. 5, s. 32 (3).

Contracts

[3.](#) Every person having legal capacity has a right to contract on equal terms without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability. R.S.O. 1990, c. H.19, s. 3; 1999, c. 6, s. 28 (4); 2001, c. 32, s. 27 (1); 2005, c. 5, s. 32 (4).

Accommodation of person under eighteen

[4. \(1\)](#) Every sixteen or seventeen year old person who has withdrawn from parental control has a right to equal treatment with respect to occupancy of and contracting for accommodation without discrimination because the person is less than eighteen years old. R.S.O. 1990, c. H.19, s. 4 (1).

Idem

[\(2\)](#) A contract for accommodation entered into by a sixteen or seventeen year old person who has withdrawn from parental control is enforceable against that person as if the person were eighteen years old. R.S.O. 1990, c. H.19, s. 4 (2).

Employment

[5. \(1\)](#) Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, family status or disability. R.S.O. 1990, c. H.19, s. 5 (1); 1999, c. 6, s. 28 (5); 2001, c. 32, s. 27 (1); 2005, c. 5, s. 32 (5).

Harassment in employment

[\(2\)](#) Every person who is an employee has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, age, record of offences, marital status, family status or disability. R.S.O. 1990, c. H.19, s. 5 (2); 1999, c. 6, s. 28 (6); 2001, c. 32, s. 27 (1); 2005, c. 5, s. 32 (6).

Vocational associations

[6.](#) Every person has a right to equal treatment with respect to membership in any trade union, trade or occupational association or self-governing profession without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability. R.S.O. 1990, c. H.19, s. 6; 1999, c. 6, s. 28 (7); 2001, c. 32, s. 27 (1); 2005, c. 5, s. 32 (7).

Sexual harassment**Harassment because of sex in accommodation**

[7. \(1\)](#) Every person who occupies accommodation has a right to freedom from

harassment because of sex by the landlord or agent of the landlord or by an occupant of the same building. R.S.O. 1990, c. H.19, s. 7 (1).

Harassment because of sex in workplaces

(2) Every person who is an employee has a right to freedom from harassment in the workplace because of sex by his or her employer or agent of the employer or by another employee. R.S.O. 1990, c. H.19, s. 7 (2).

Sexual solicitation by a person in position to confer benefit, etc.

(3) Every person has a right to be free from,

(a) a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or

(b) a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person. R.S.O. 1990, c. H.19, s. 7 (3).

Reprisals

8. Every person has a right to claim and enforce his or her rights under this Act, to institute and participate in proceedings under this Act and to refuse to infringe a right of another person under this Act, without reprisal or threat of reprisal for so doing. R.S.O. 1990, c. H.19, s. 8.

Infringement prohibited

9. No person shall infringe or do, directly or indirectly, anything that infringes a right under this Part. R.S.O. 1990, c. H.19, s. 9.

PART II INTERPRETATION AND APPLICATION

Definitions re: Parts I and II

10. (1) In Part I and in this Part,

“age” means an age that is 18 years or more; (“âge”)

“disability” means,

(a) 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 diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device,

(b) a condition of mental impairment or a developmental disability,

(c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,

(d) a mental disorder, or

(e) an injury or disability for which benefits were claimed or received under the insurance plan established under the *Workplace Safety and Insurance Act, 1997*; (“handicap”)

“equal” means subject to all requirements, qualifications and considerations that are not a prohibited ground of discrimination; (“égal”)

“family status” means the status of being in a parent and child relationship; (“état familial”)

“group insurance” means insurance whereby the lives or well-being or the lives and well-being of a number of persons are insured severally under a single contract between an insurer and an association or an employer or other person; (“assurance-groupe”)

“harassment” means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome; (“harcèlement”)

“marital status” means the status of being married, single, widowed, divorced or separated and includes the status of living with a person in a conjugal relationship outside marriage; (“état matrimonial”)

“record of offences” means a conviction for,

(a) an offence in respect of which a pardon has been granted under the *Criminal Records Act* (Canada) and has not been revoked, or

(b) an offence in respect of any provincial enactment; (“casier judiciaire”)

“services” does not include a levy, fee, tax or periodic payment imposed by law; (“services”)

“spouse” means the person to whom a person is married or with whom the person is living in a conjugal relationship outside marriage. (“conjoint”) R.S.O. 1990, c. H.19, s. 10 (1); 1993, c. 27, Sched.; 1997, c. 16, s. 8; 1999, c. 6, s. 28 (8); 2001, c. 13, s. 19; 2001, c. 32, s. 27 (2, 3); 2005, c. 5, s. 32 (8-10); 2005, c. 29, s. 1 (1).

Pregnancy

(2) The right to equal treatment without discrimination because of sex includes the right to equal treatment without discrimination because a woman is or may become pregnant. R.S.O. 1990, c. H.19, s. 10 (2).

Past and presumed disabilities

(3) The right to equal treatment without discrimination because of disability includes the right to equal treatment without discrimination because a person has or has had a disability or is believed to have or to have had a disability. 2001, c. 32, s. 27 (4).

Constructive discrimination

11. (1) A right of a person under Part I is infringed where a requirement, qualification or factor exists that is not discrimination on a prohibited ground but that results in the exclusion, restriction or preference of a group of persons who are identified by a prohibited ground of discrimination and of whom the person is a member, except where,

(a) the requirement, qualification or factor is reasonable and *bona fide* in the circumstances; or

(b) it is declared in this Act, other than in section 17, that to discriminate because

of such ground is not an infringement of a right. R.S.O. 1990, c. H.19, s. 11 (1).

Idem

(2) The Commission, the Tribunal or a court shall not find that a requirement, qualification or factor is reasonable and *bona fide* in the circumstances unless it is satisfied that the needs of the group of which the person is a member cannot be accommodated without undue hardship on the person responsible for accommodating those needs, considering the cost, outside sources of funding, if any, and health and safety requirements, if any. R.S.O. 1990, c. H.19, s. 11 (2); 1994, c. 27, s. 65 (1); 2002, c. 18, Sched. C, s. 2 (1).

Idem

(3) The Commission, the Tribunal or a court shall consider any standards prescribed by the regulations for assessing what is undue hardship. R.S.O. 1990, c. H.19, s. 11 (3); 1994, c. 27, s. 65 (2); 2002, c. 18, Sched. C, s. 2 (2).

Discrimination because of association

12. A right under Part I is infringed where the discrimination is because of relationship, association or dealings with a person or persons identified by a prohibited ground of discrimination. R.S.O. 1990, c. H.19, s. 12.

Announced intention to discriminate

13. (1) A right under Part I is infringed by a person who publishes or displays before the public or causes the publication or display before the public of any notice, sign, symbol, emblem, or other similar representation that indicates the intention of the person to infringe a right under Part I or that is intended by the person to incite the infringement of a right under Part I. R.S.O. 1990, c. H.19, s. 13 (1).

Opinion

(2) Subsection (1) shall not interfere with freedom of expression of opinion. R.S.O. 1990, c. H.19, s. 13 (2).

Special programs

14. (1) A right under Part I is not infringed by the implementation of a special program designed to relieve hardship or economic disadvantage or to assist disadvantaged persons or groups to achieve or attempt to achieve equal opportunity or that is likely to contribute to the elimination of the infringement of rights under Part I. R.S.O. 1990, c. H.19, s. 14 (1).

Review by Commission

(2) The Commission may,

- (a) upon its own initiative;
- (b) upon application by a person seeking to implement a special program under the protection of subsection (1); or
- (c) upon a complaint in respect of which the protection of subsection (1) is claimed,

inquire into the special program and, in the discretion of the Commission, may by order declare,

- (d) that the special program, as defined in the order, does not satisfy the

requirements of subsection (1); or

- (e) that the special program as defined in the order, with such modifications, if any, as the Commission considers advisable, satisfies the requirements of subsection (1). R.S.O. 1990, c. H.19, s. 14 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (2) is repealed by the Statutes of Ontario, 2006, chapter 30, section 1 and the following substituted:

Application to Commission

(2) A person may apply to the Commission for a designation of a program as a special program for the purposes of subsection (1). 2006, c. 30, s. 1.

See: 2006, c. 30, ss. 1, 12 (2).

Reconsideration

(3) A person aggrieved by the making of an order under subsection (2) may request the Commission to reconsider its order and section 37, with necessary modifications, applies. R.S.O. 1990, c. H.19, s. 14 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (3) is repealed by the Statutes of Ontario, 2006, chapter 30, section 1 and the following substituted:

Designation by Commission

(3) Upon receipt of an application, the Commission may,

- (a) designate the program as a special program if, in its opinion, the program meets the requirements of subsection (1); or
- (b) designate the program as a special program on the condition that the program make such modifications as are specified in the designation in order to meet the requirements of subsection (1). 2006, c. 30, s. 1.

See: 2006, c. 30, ss. 1, 12 (2).

Effect of order

(4) Subsection (1) does not apply to a special program where an order is made under clause (2) (d) or where an order is made under clause (2) (e) with modifications of the special program that are not implemented. R.S.O. 1990, c. H.19, s. 14 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (4) is repealed by the Statutes of Ontario, 2006, chapter 30, section 1 and the following substituted:

Inquiries initiated by Commission

(4) The Commission may, on its own initiative, inquire into one or more programs to determine whether the programs are special programs for the purposes of subsection (1). 2006, c. 30, s. 1.

See: 2006, c. 30, ss. 1, 12 (2).

Subs. (2) does not apply to Crown

(5) Subsection (2) does not apply to a special program implemented by the Crown or an agency of the Crown. R.S.O. 1990, c. H.19, s. 14 (5).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (5) is repealed by the Statutes of Ontario, 2006, chapter 30, section 1 and the following substituted:

End of inquiry

(5) At the conclusion of an inquiry under subsection (4), the Commission may designate as a special program any of the programs under inquiry if, in its opinion, the programs meet the requirements of subsection (1). 2006, c. 30, s. 1.

Expiry of designation

(6) A designation under subsection (3) or (5) expires five years after the day it is issued or at such earlier time as may be specified by the Commission. 2006, c. 30, s. 1.

Renewal of designation

(7) If an application for renewal of a designation of a program as a special program is made to the Commission before its expiry under subsection (6), the Commission may,

(a) renew the designation if, in its opinion, the program continues to meet the requirements of subsection (1); or

(b) renew the designation on the condition that the program make such modifications as are specified in the designation in order to meet the requirements of subsection (1). 2006, c. 30, s. 1.

Effect of designation, etc.

(8) In a proceeding,

(a) evidence that a program has been designated as a special program under this section is proof, in the absence of evidence to the contrary, that the program is a special program for the purposes of subsection (1); and

(b) evidence that the Commission has considered and refused to designate a program as a special program under this section is proof, in the absence of evidence to the contrary, that the program is not a special program for the purposes of subsection (1). 2006, c. 30, s. 1.

Crown programs

(9) Subsections (2) to (8) do not apply to a program implemented by the Crown or an agency of the Crown. 2006, c. 30, s. 1.

Tribunal finding

(10) For the purposes of a proceeding before the Tribunal, the Tribunal may make a finding that a program meets the requirements of a special program under subsection (1), even though the program has not been designated as a special program by the Commission under this section, subject to clause (8) (b). 2006, c. 30, s. 1.

See: 2006, c. 30, ss. 1, 12 (2).

14.1 Repealed: 1995, c. 4, s. 3 (1).

Age sixty-five or over

15. A right under Part I to non-discrimination because of age is not infringed where an age of sixty-five years or over is a requirement, qualification or consideration for preferential treatment. R.S.O. 1990, c. H.19, s. 15.

Canadian Citizenship

16. (1) A right under Part I to non-discrimination because of citizenship is not infringed where Canadian citizenship is a requirement, qualification or consideration imposed or authorized by law. R.S.O. 1990, c. H.19, s. 16 (1).

Idem

(2) A right under Part I to non-discrimination because of citizenship is not infringed where Canadian citizenship or lawful admission to Canada for permanent residence is a requirement, qualification or consideration adopted for the purpose of fostering and developing participation in cultural, educational, trade union or athletic activities by Canadian citizens or persons lawfully admitted to Canada for permanent residence. R.S.O. 1990, c. H.19, s. 16 (2).

Idem

(3) A right under Part I to non-discrimination because of citizenship is not infringed where Canadian citizenship or domicile in Canada with the intention to obtain Canadian citizenship is a requirement, qualification or consideration adopted by an organization or enterprise for the holder of chief or senior executive positions. R.S.O. 1990, c. H.19, s. 16 (3).

Disability

17. (1) A right of a person under this Act is not infringed for the reason only that the person is incapable of performing or fulfilling the essential duties or requirements attending the exercise of the right because of disability. R.S.O. 1990, c. H.19, s. 17 (1); 2001, c. 32, s. 27 (5).

Accommodation

(2) The Commission, the Tribunal or a court shall not find a person incapable unless it is satisfied that the needs of the person cannot be accommodated without undue hardship on the person responsible for accommodating those needs, considering the cost, outside sources of funding, if any, and health and safety requirements, if any. R.S.O. 1990, c. H.19, s. 17 (2); 1994, c. 27, s. 65 (2); 2002, c. 18, Sched. C, s. 3 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (2) is amended by the Statutes of Ontario, 2006, chapter 30, subsection 2 (1) by striking out “The Commission, the Tribunal or a court shall not find” at the beginning and substituting “No tribunal or court shall find”. See: 2006, c. 30, ss. 2 (1), 12 (2).

Idem

(3) The Commission, the Tribunal or a court shall consider any standards prescribed by the regulations for assessing what is undue hardship. R.S.O. 1990, c. H.19, s. 17 (3); 1994, c. 27, s. 65 (2); 2002, c. 18, Sched. C, s. 3 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (3) is repealed by the Statutes of Ontario, 2006, chapter 30, subsection 2 (2) and the following

substituted:

Determining if undue hardship

(3) In determining for the purposes of subsection (2) whether there would be undue hardship, a tribunal or court shall consider any standards prescribed by the regulations. 2006, c. 30, s. 2 (2).

See: 2006, c. 30, ss. 2 (2), 12 (2).

Powers of Commission

(4) Where, after the investigation of a complaint, the Commission determines that the evidence does not warrant the subject-matter of the complaint being referred to the Tribunal because of the application of subsection (1), the Commission may nevertheless use its best endeavours to effect a settlement as to the duties or requirements. R.S.O. 1990, c. H.19, s. 17 (4); 1994, c. 27, s. 65 (3); 2002, c. 18, Sched. C, s. 1.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (4) is repealed by the Statutes of Ontario, 2006, chapter 30, subsection 2 (3). See: 2006, c. 30, ss. 2 (3), 12 (2).

Special interest organizations

18. The rights under Part I to equal treatment with respect to services and facilities, with or without accommodation, are not infringed where membership or participation in a religious, philanthropic, educational, fraternal or social institution or organization that is primarily engaged in serving the interests of persons identified by a prohibited ground of discrimination is restricted to persons who are similarly identified. R.S.O. 1990, c. H.19, s. 18; 2006, c. 19, Sched. B, s. 10.

Solemnization of marriage by religious officials

18.1 (1) The rights under Part I to equal treatment with respect to services and facilities are not infringed where a person registered under section 20 of the *Marriage Act* refuses to solemnize a marriage, to allow a sacred place to be used for solemnizing a marriage or for an event related to the solemnization of a marriage, or to otherwise assist in the solemnization of a marriage, if to solemnize the marriage, allow the sacred place to be used or otherwise assist would be contrary to,

- (a) the person's religious beliefs; or
- (b) the doctrines, rites, usages or customs of the religious body to which the person belongs. 2005, c. 5, s. 32 (11).

Same

(2) Nothing in subsection (1) limits the application of section 18. 2005, c. 5, s. 32 (11).

Definition

(3) In this section,
“sacred place” includes a place of worship and any ancillary or accessory facilities. 2005, c. 5, s. 32 (11).

Separate school rights preserved

19. (1) This Act shall not be construed to adversely affect any right or privilege respecting separate schools enjoyed by separate school boards or their supporters under the *Constitution Act, 1867* and the *Education Act*. R.S.O. 1990, c. H.19, s. 19 (1).

Duties of teachers

(2) This Act does not apply to affect the application of the *Education Act* with respect to the duties of teachers. R.S.O. 1990, c. H.19, s. 19 (2).

Restriction of facilities by sex

20. (1) The right under section 1 to equal treatment with respect to services and facilities without discrimination because of sex is not infringed where the use of the services or facilities is restricted to persons of the same sex on the ground of public decency. R.S.O. 1990, c. H.19, s. 20 (1).

Minimum drinking age

(2) The right under section 1 to equal treatment with respect to services, goods and facilities without discrimination because of age is not infringed by the provisions of the *Liquor Licence Act* and the regulations under it relating to providing for and enforcing a minimum drinking age of nineteen years. R.S.O. 1990, c. H.19, s. 20 (2).

Recreational clubs

(3) The right under section 1 to equal treatment with respect to services and facilities is not infringed where a recreational club restricts or qualifies access to its services or facilities or gives preferences with respect to membership dues and other fees because of age, sex, marital status or family status. R.S.O. 1990, c. H.19, s. 20 (3); 1999, c. 6, s. 28 (9); 2005, c. 5, s. 32 (12).

Tobacco and young persons

(4) The right under section 1 to equal treatment with respect to goods without discrimination because of age is not infringed by the provisions of the *Smoke-Free Ontario Act* and the regulations under it relating to selling or supplying tobacco to persons who are, or who appear to be, under the age of 19 years or 25 years, as the case may be. 1994, c. 10, s. 22; 2005, c. 18, s. 17.

Residential accommodation

Shared accommodation

21. (1) The right under section 2 to equal treatment with respect to the occupancy of residential accommodation without discrimination is not infringed by discrimination where the residential accommodation is in a dwelling in which the owner or his or her family reside if the occupant or occupants of the residential accommodation are required to share a bathroom or kitchen facility with the owner or family of the owner. R.S.O. 1990, c. H.19, s. 21 (1).

Restrictions on accommodation, sex

(2) The right under section 2 to equal treatment with respect to the occupancy of residential accommodation without discrimination because of sex is not infringed by discrimination on that ground where the occupancy of all the residential accommodation in the building, other than the accommodation, if any, of the owner or family of the owner, is restricted to persons who are of the same sex. R.S.O. 1990, c. H.19, s. 21 (2).

Prescribing business practices

(3) The right under section 2 to equal treatment with respect to the occupancy of residential accommodation without discrimination is not infringed if a landlord uses in the manner prescribed under this Act income information, credit checks, credit references, rental history, guarantees or other similar business practices which are prescribed in the regulations made under this Act in selecting prospective tenants. 1997, c. 24, s. 212 (1).

Restrictions for insurance contracts, etc.

22. The right under sections 1 and 3 to equal treatment with respect to services and to contract on equal terms, without discrimination because of age, sex, marital status, family status or disability, is not infringed where a contract of automobile, life, accident or sickness or disability insurance or a contract of group insurance between an insurer and an association or person other than an employer, or a life annuity, differentiates or makes a distinction, exclusion or preference on reasonable and *bona fide* grounds because of age, sex, marital status, family status or disability. R.S.O. 1990, c. H.19, s. 22; 1999, c. 6, s. 28 (10); 2001, c. 32, s. 27 (5); 2005, c. 5, s. 32 (13).

Employment

23. (1) The right under section 5 to equal treatment with respect to employment is infringed where an invitation to apply for employment or an advertisement in connection with employment is published or displayed that directly or indirectly classifies or indicates qualifications by a prohibited ground of discrimination. R.S.O. 1990, c. H.19, s. 23 (1).

Application for employment

(2) The right under section 5 to equal treatment with respect to employment is infringed where a form of application for employment is used or a written or oral inquiry is made of an applicant that directly or indirectly classifies or indicates qualifications by a prohibited ground of discrimination. R.S.O. 1990, c. H.19, s. 23 (2).

Questions at interview

(3) Nothing in subsection (2) precludes the asking of questions at a personal employment interview concerning a prohibited ground of discrimination where discrimination on such ground is permitted under this Act. R.S.O. 1990, c. H.19, s. 23 (3).

Employment agencies

(4) The right under section 5 to equal treatment with respect to employment is infringed where an employment agency discriminates against a person because of a prohibited ground of discrimination in receiving, classifying, disposing of or otherwise acting upon applications for its services or in referring an applicant or applicants to an employer or agent of an employer. R.S.O. 1990, c. H.19, s. 23 (4).

Special employment

24. (1) The right under section 5 to equal treatment with respect to employment is not infringed where,

- (a) a religious, philanthropic, educational, fraternal or social institution or organization that is primarily engaged in serving the interests of persons identified by their race, ancestry, place of origin, colour, ethnic origin, creed, sex, age, marital status or disability employs only, or gives preference in employment to, persons

similarly identified if the qualification is a reasonable and *bona fide* qualification because of the nature of the employment;

(b) the discrimination in employment is for reasons of age, sex, record of offences or marital status if the age, sex, record of offences or marital status of the applicant is a reasonable and *bona fide* qualification because of the nature of the employment;

(c) an individual person refuses to employ another for reasons of any prohibited ground of discrimination in section 5, where the primary duty of the employment is attending to the medical or personal needs of the person or of an ill child or an aged, infirm or ill spouse or other relative of the person;

(d) an employer grants or withholds employment or advancement in employment to a person who is the spouse, child or parent of the employer or an employee;

(e) a judge or master is required to retire or cease to continue in office on reaching a specified age under the *Courts of Justice Act*;

(f) a case management master is required to retire on reaching a specified age under the *Courts of Justice Act*;

(g) the term of reappointment of a case management master expires on the case management master reaching a specified age under the *Courts of Justice Act*; or

(h) a justice of the peace is required to retire on reaching a specified age under the *Justices of the Peace Act*. R.S.O. 1990, c. H.19, s. 24 (1); 1999, c. 6, s. 28 (11); 2001, c. 32, s. 27 (5); 2005, c. 5, s. 32 (14); 2005, c. 29, s. 1 (2).

Reasonable accommodation

(2) The Commission, the Tribunal or a court shall not find that a qualification under clause (1) (b) is reasonable and *bona fide* unless it is satisfied that the circumstances of the person cannot be accommodated without undue hardship on the person responsible for accommodating those circumstances considering the cost, outside sources of funding, if any, and health and safety requirements, if any. R.S.O. 1990, c. H.19, s. 24 (2); 1994, c. 27, s. 65 (4); 2002, c. 18, Sched. C, s. 4 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (2) is amended by the Statutes of Ontario, 2006, chapter 30, subsection 3 (1) by striking out “The Commission, the Tribunal or a court shall not find” at the beginning and substituting “No tribunal or court shall find”. See: 2006, c. 30, ss. 3 (1), 12 (2).

Idem

(3) The Commission, the Tribunal or a court shall consider any standards prescribed by the regulations for assessing what is undue hardship. R.S.O. 1990, c. H.19, s. 24 (3); 1994, c. 27, s. 65 (4); 2002, c. 18, Sched. C, s. 4 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (3) is repealed by the Statutes of Ontario, 2006, chapter 30, subsection 3 (2) and the following substituted:

Determining if undue hardship

(3) In determining for the purposes of subsection (2) whether there would be undue hardship, a tribunal or court shall consider any standards prescribed by the regulations. 2006,

c. 30, s. 3 (2).

See: 2006, c. 30, ss. 3 (2), 12 (2).

Same

(4) Clauses 24 (1) (e), (f), (g) and (h) shall not be interpreted to suggest that a judge, master, case management master or justice of the peace is an employee for the purposes of this Act or any other Act or law. 2005, c. 29, s. 1 (3).

24.1 Repealed: 1995, c. 4, s. 3 (2).

Employee benefit and pension plans

25. (1) The right under section 5 to equal treatment with respect to employment is infringed where employment is denied or made conditional because a term or condition of employment requires enrolment in an employee benefit, pension or superannuation plan or fund or a contract of group insurance between an insurer and an employer, that makes a distinction, preference or exclusion on a prohibited ground of discrimination. R.S.O. 1990, c. H.19, s. 25 (1).

Same

(2) The right under section 5 to equal treatment with respect to employment without discrimination because of sex, marital status or family status is not infringed by an employee superannuation or pension plan or fund or a contract of group insurance between an insurer and an employer that complies with the *Employment Standards Act, 2000* and the regulations thereunder. R.S.O. 1990, c. H.19, s. 25 (2); 1999, c. 6, s. 28 (12); 2005, c. 5, s. 32 (15); 2005, c. 29, s. 1 (4).

Same

(2.1) The right under section 5 to equal treatment with respect to employment without discrimination because of age is not infringed by an employee benefit, pension, superannuation or group insurance plan or fund that complies with the *Employment Standards Act, 2000* and the regulations thereunder. 2005, c. 29, s. 1 (5).

Same

(2.2) Subsection (2.1) applies whether or not a plan or fund is the subject of a contract of insurance between an insurer and an employer. 2005, c. 29, s. 1 (5).

Same

(2.3) For greater certainty, subsections (2) and (2.1) apply whether or not “age”, “sex” or “marital status” in the *Employment Standards Act, 2000* or the regulations under it have the same meaning as those terms have in this Act. 2005, c. 29, s. 1 (5).

Same

(3) The right under section 5 to equal treatment with respect to employment without discrimination because of disability is not infringed,

(a) where a reasonable and *bona fide* distinction, exclusion or preference is made in an employee disability or life insurance plan or benefit because of a pre-existing disability that substantially increases the risk;

(b) where a reasonable and *bona fide* distinction, exclusion or preference is made on the ground of a pre-existing disability in respect of an employee-pay-all or

participant-pay-all benefit in an employee benefit, pension or superannuation plan or fund or a contract of group insurance between an insurer and an employer or in respect of a plan, fund or policy that is offered by an employer to employees if they are fewer than twenty-five in number. R.S.O. 1990, c. H.19, s. 25 (3); 2001, c. 32, s. 27 (5).

Compensation

(4) An employer shall pay to an employee who is excluded because of a disability from an employee benefit, pension or superannuation plan or fund or a contract of group insurance between an insurer and the employer compensation equivalent to the contribution that the employer would make thereto on behalf of an employee who does not have a disability. R.S.O. 1990, c. H.19, s. 25 (4); 2001, c. 32, s. 27 (5).

Discrimination in employment under government contracts

26. (1) It shall be deemed to be a condition of every contract entered into by or on behalf of the Crown or any agency thereof and of every subcontract entered into in the performance thereof that no right under section 5 will be infringed in the course of performing the contract. R.S.O. 1990, c. H.19, s. 26 (1).

Idem: government grants and loans

(2) It shall be deemed to be a condition of every grant, contribution, loan or guarantee made by or on behalf of the Crown or any agency thereof that no right under section 5 will be infringed in the course of carrying out the purposes for which the grant, contribution, loan or guarantee was made. R.S.O. 1990, c. H.19, s. 26 (2).

Sanction

(3) Where an infringement of a right under section 5 is found by the Tribunal upon a complaint and constitutes a breach of a condition under this section, the breach of condition is sufficient grounds for cancellation of the contract, grant, contribution, loan or guarantee and refusal to enter into any further contract with or make any further grant, contribution, loan or guarantee to the same person. R.S.O. 1990, c. H.19, s. 26 (3); 2002, c. 18, Sched. C, s. 5.

PART III THE ONTARIO HUMAN RIGHTS COMMISSION

The Commission

27. (1) The Ontario Human Rights Commission is continued under the name Ontario Human Rights Commission in English and Commission ontarienne des droits de la personne in French and shall be composed of such persons, being not fewer than seven, as are appointed by the Lieutenant Governor in Council. R.S.O. 1990, c. H.19, s. 27 (1).

Responsible to Minister

(2) The Commission is responsible to the Minister for the administration of this Act. R.S.O. 1990, c. H.19, s. 27 (2).

Chair

(3) The Lieutenant Governor in Council shall designate a member of the Commission as chair, and a member as vice-chair. R.S.O. 1990, c. H.19, s. 27 (3).

Remuneration

(4) The Lieutenant Governor in Council may fix the remuneration and allowance for

expenses of the chair, vice-chair and members of the Commission. R.S.O. 1990, c. H.19, s. 27 (4).

Employees

(5) The employees of the Commission shall be appointed under the *Public Service Act*. R.S.O. 1990, c. H.19, s. 27 (5).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (5) is repealed by the Statutes of Ontario, 2006, chapter 35, Schedule C, subsection 54 (1) and the following substituted:

Employees

(5) Such employees as are considered necessary for the proper conduct of the affairs of the Commission shall be appointed under Part III of the *Public Service of Ontario Act, 2006*. 2006, c. 35, Sched. C, s. 54 (1).

See: 2006, c. 35, Sched. C, ss. 54 (1), 137 (1).

Note: If the Statutes of Ontario, 2006, chapter 30, section 4 comes into force on or before the day the Statutes of Ontario, 2006, chapter 35, Schedule C, subsection 54 (1) comes into force, subsection 54 (1) does not apply. See: 2006, c. 35, Sched. C, ss. 132 (3), 137 (1).

Divisions

(6) The Commission may authorize any function of the Commission to be performed by a division of the Commission composed of at least three members of the Commission. R.S.O. 1990, c. H.19, s. 27 (6).

Race relations division

28. (1) The Lieutenant Governor in Council shall designate at least three members of the Commission to constitute a race relations division of the Commission and shall designate one member of the race relations division as Commissioner for Race Relations. R.S.O. 1990, c. H.19, s. 28 (1).

Functions

(2) It is the function of the race relations division of the Commission to perform any of the functions of the Commission under clause 29 (f), (g) or (h) relating to race, ancestry, place of origin, colour, ethnic origin or creed that are referred to it by the Commission and any other function referred to it by the Commission. R.S.O. 1990, c. H.19, s. 28 (2).

Function of Commission

29. It is the function of the Commission,

- (a) to forward the policy that the dignity and worth of every person be recognized and that equal rights and opportunities be provided without discrimination that is contrary to law;
- (b) to promote an understanding and acceptance of and compliance with this Act;
- (c) to recommend for consideration a special plan or program designed to meet the requirements of subsection 14 (1), subject to the right of a person aggrieved by the implementation of the plan or program to request the Commission to reconsider its

recommendation and section 37 applies with necessary modifications;

(d) to develop and conduct programs of public information and education and undertake, direct and encourage research designed to eliminate discriminatory practices that infringe rights under this Act;

(e) to examine and review any statute or regulation, and any program or policy made by or under a statute and make recommendations on any provision, program or policy, that in its opinion is inconsistent with the intent of this Act;

(f) to inquire into incidents of and conditions leading or tending to lead to tension or conflict based upon identification by a prohibited ground of discrimination and take appropriate action to eliminate the source of tension or conflict;

(g) to initiate investigations into problems based upon identification by a prohibited ground of discrimination that may arise in a community, and encourage and co-ordinate plans, programs and activities to reduce or prevent such problems;

(h) to promote, assist and encourage public, municipal or private agencies, organizations, groups or persons to engage in programs to alleviate tensions and conflicts based upon identification by a prohibited ground of discrimination;

(i) to enforce this Act and orders of the Tribunal;

(j) to perform the functions assigned to it by this or any other Act. R.S.O. 1990, c. H.19, s. 29; 1994, c. 27, s. 65 (6); 2002, c. 18, Sched. C, s. 1.

Evidence obtained in course of investigation

30. (1) No person who is a member of the Commission shall be required to give testimony in a civil suit or any proceeding as to information obtained in the course of an investigation under this Act. R.S.O. 1990, c. H.19, s. 30 (1).

Idem

(2) No person who is employed in the administration of this Act shall be required to give testimony in a civil suit or any proceeding other than a proceeding under this Act as to information obtained in the course of an investigation under this Act. R.S.O. 1990, c. H.19, s. 30 (2).

Annual report

31. (1) The Commission shall make a report to the Minister not later than the 30th day of June in each year upon the affairs of the Commission during the year ending on the 31st day of March of that year. R.S.O. 1990, c. H.19, s. 31 (1).

Idem

(2) The Minister shall submit the report to the Lieutenant Governor in Council who shall cause the report to be laid before the Assembly if it is in session, or, if not, at the next session. R.S.O. 1990, c. H.19, s. 31 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, Part III is repealed by the Statutes of Ontario, 2006, chapter 30, section 4 and the following substituted:

PART III

THE ONTARIO HUMAN RIGHTS COMMISSION

The Commission

27. (1) The Ontario Human Rights Commission is continued under the name Ontario Human Rights Commission in English and Commission ontarienne des droits de la personne in French. 2006, c. 30, s. 4.

Composition

(2) The Commission shall be composed of such persons as are appointed by the Lieutenant Governor in Council. 2006, c. 30, s. 4.

Appointment

(3) Every person appointed to the Commission shall have knowledge, experience or training with respect to human rights law and issues. 2006, c. 30, s. 4.

Criteria

(4) In the appointment of persons to the Commission under subsection (2), the importance of reflecting, in the composition of the Commission as a whole, the diversity of Ontario's population shall be recognized. 2006, c. 30, s. 4.

Chief Commissioner

(5) The Lieutenant Governor in Council shall designate a member of the Commission as Chief Commissioner. 2006, c. 30, s. 4.

Powers and duties of Chief Commissioner

(6) The Chief Commissioner shall direct the Commission and exercise the powers and perform the duties assigned to the Chief Commissioner by or under this Act. 2006, c. 30, s. 4.

Term of office

(7) The Chief Commissioner and other members of the Commission shall hold office for such term as may be specified by the Lieutenant Governor in Council. 2006, c. 30, s. 4.

Remuneration

(8) The Chief Commissioner and other members of the Commission shall be paid such remuneration and allowance for expenses as are fixed by the Lieutenant Governor in Council. 2006, c. 30, s. 4.

Employees

(9) The Commission may appoint such employees as it considers necessary for the proper conduct of its affairs and the employees shall be appointed under the *Public Service Act*. 2006, c. 30, s. 4.

Note: On the later of the day the Statutes of Ontario, 2006, chapter 35, Schedule C, section 132 comes into force and the day the Statutes of Ontario, 2006, chapter 30, section 4 comes into force, subsection (9) is amended by the Statutes of Ontario, 2006, chapter 35, Schedule C, subsection 132 (5) by striking out "the *Public Service Act*" at the end and substituting "Part III of the *Public Service of Ontario Act, 2006*". See: 2006, c. 35, Sched. C, ss. 132 (5), 137 (1).

Evidence obtained in performance of duties

(10) A member of the Commission shall not be required to give testimony in a civil suit or any proceeding as to information obtained in the performance of duties under this Act. 2006, c. 30, s. 4.

Same, employees

(11) An employee of the Commission shall not be required to give testimony in a civil suit or any proceeding other than a proceeding under this Act as to information obtained in the performance of duties under this Act. 2006, c. 30, s. 4.

Delegation

(12) The Chief Commissioner may in writing delegate any of his or her powers, duties or functions under this Act to any member of the Anti-Racism Secretariat, the Disability Rights Secretariat or an advisory group or to any other member of the Commission, subject to such conditions as the Chief Commissioner may set out in the delegation. 2006, c. 30, s. 4.

Divisions

(13) The Commission may authorize any function of the Commission to be performed by a division of the Commission composed of at least three members of the Commission. 2006, c. 30, s. 4.

Acting Chief Commissioner

28. (1) If the Chief Commissioner dies, resigns or is unable or neglects to perform his or her duties, the Lieutenant Governor in Council may appoint an Acting Chief Commissioner to hold office for such period as may be specified in the appointment. 2006, c. 30, s. 4.

Same

(2) An Acting Chief Commissioner shall perform the duties and have the powers of the Chief Commissioner and shall be paid such remuneration and allowance for expenses as are fixed by the Lieutenant Governor in Council. 2006, c. 30, s. 4.

Functions of Commission

29. The functions of the Commission are to promote and advance respect for human rights in Ontario, to protect human rights in Ontario and, recognizing that it is in the public interest to do so and that it is the Commission's duty to protect the public interest, to identify and promote the elimination of discriminatory practices and, more specifically,

- (a) to forward the policy that the dignity and worth of every person be recognized and that equal rights and opportunities be provided without discrimination that is contrary to law;
- (b) to develop and conduct programs of public information and education to,
 - (i) promote awareness and understanding of, respect for and compliance with this Act, and
 - (ii) prevent and eliminate discriminatory practices that infringe rights under Part I;
- (c) to undertake, direct and encourage research into discriminatory practices and to make recommendations designed to prevent and eliminate such discriminatory

practices;

(d) to examine and review any statute or regulation, and any program or policy made by or under a statute, and make recommendations on any provision, program or policy that in his or her opinion is inconsistent with the intent of this Act;

(e) to initiate reviews and inquiries into incidents of tension or conflict, or conditions that lead or may lead to incidents of tension or conflict, in a community, institution, industry or sector of the economy, and to make recommendations, and encourage and co-ordinate plans, programs and activities, to reduce or prevent such incidents or sources of tension or conflict;

(f) to promote, assist and encourage public, municipal or private agencies, organizations, groups or persons to engage in programs to alleviate tensions and conflicts based upon identification by a prohibited ground of discrimination;

(g) to designate programs as special programs in accordance with section 14;

(h) to approve policies under section 30;

(i) to make applications to the Tribunal under section 35;

(j) to report to the people of Ontario on the state of human rights in Ontario and on its affairs;

(k) to perform the functions assigned to the Commission under this or any other Act. 2006, c. 30, s. 4.

Commission policies

30. The Commission may approve policies prepared and published by the Commission to provide guidance in the application of Parts I and II. 2006, c. 30, s. 4.

Inquiries

31. (1) The Commission may conduct an inquiry under this section for the purpose of carrying out its functions under this Act if the Commission believes it is in the public interest to do so. 2006, c. 30, s. 4.

Conduct of inquiry

(2) An inquiry may be conducted under this section by any person who is appointed by the Commission to carry out inquiries under this section. 2006, c. 30, s. 4.

Production of certificate

(3) A person conducting an inquiry under this section shall produce proof of their appointment upon request. 2006, c. 30, s. 4.

Entry

(4) A person conducting an inquiry under this section may, without warrant, enter any lands or any building, structure or premises where the person has reason to believe there may be documents, things or information relevant to the inquiry. 2006, c. 30, s. 4.

Time of entry

(5) The power to enter a place under subsection (4) may be exercised only during the place's regular business hours or, if it does not have regular business hours, during daylight

hours. 2006, c. 30, s. 4.

Dwellings

(6) A person conducting an inquiry under this section shall not enter into a place or part of a place that is a dwelling without the consent of the occupant. 2006, c. 30, s. 4.

Powers on inquiry

(7) A person conducting an inquiry may,

- (a) request the production for inspection and examination of documents or things that are or may be relevant to the inquiry;
- (b) upon giving a receipt for it, remove from a place documents produced in response to a request under clause (a) for the purpose of making copies or extracts;
- (c) question a person on matters that are or may be relevant to the inquiry, subject to the person's right to have counsel or a personal representative present during such questioning and exclude from the questioning any person who may be adverse in interest to the inquiry;
- (d) use any data storage, processing or retrieval device or system used in carrying on business in the place in order to produce a document in readable form;
- (e) take measurements or record by any means the physical dimensions of a place;
- (f) take photographs, video recordings or other visual or audio recordings of the interior or exterior of a place; and
- (g) require that a place or part thereof not be disturbed for a reasonable period of time for the purposes of carrying out an examination, inquiry or test. 2006, c. 30, s. 4.

Written demand

(8) A demand that a document or thing be produced must be in writing and must include a statement of the nature of the document or thing required. 2006, c. 30, s. 4.

Assistance

(9) A person conducting an inquiry may be accompanied by any person who has special, expert or professional knowledge and who may be of assistance in carrying out the inquiry. 2006, c. 30, s. 4.

Use of force prohibited

(10) A person conducting an inquiry shall not use force to enter and search premises under this section. 2006, c. 30, s. 4.

Obligation to produce and assist

(11) A person who is requested to produce a document or thing under clause (7) (a) shall produce it and shall, on request by the person conducting the inquiry, provide any assistance that is reasonably necessary, including assistance in using any data storage, processing or retrieval device or system, to produce a document in readable form. 2006, c. 30, s. 4.

Return of removed things

(12) A person conducting an inquiry who removes any document or thing from a place

under clause (7) (b) shall,

- (a) make it available to the person from whom it was removed, on request, at a time and place convenient for both that person and the person conducting the inquiry; and
 - (b) return it to the person from whom it was removed within a reasonable time.
- 2006, c. 30, s. 4.

Admissibility of copies

(13) A copy of a document certified by a person conducting an inquiry to be a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value. 2006, c. 30, s. 4.

Obstruction

(14) No person shall obstruct or interfere with a person conducting an inquiry under this section. 2006, c. 30, s. 4.

Search warrant

31.1 (1) The Commission may authorize a person to apply to a justice of the peace for a warrant to enter a place and conduct a search of the place if,

- (a) a person conducting an inquiry under section 31 has been denied entry to any place or asked to leave a place before concluding a search;
- (b) a person conducting an inquiry under section 31 made a request for documents or things and the request was refused; or
- (c) an inquiry under section 31 is otherwise obstructed or prevented. 2006, c. 30, s. 4.

Same

(2) Upon application by a person authorized under subsection (1) to do so, a justice of the peace may issue a warrant under this section if he or she is satisfied on information under oath or affirmation that the warrant is necessary for the purposes of carrying out the inquiry under section 31. 2006, c. 30, s. 4.

Powers

(3) A warrant obtained under subsection (2) may authorize a person named in the warrant, upon producing proof of his or her appointment,

- (a) to enter any place specified in the warrant, including a dwelling; and
- (b) to do any of the things specified in the warrant. 2006, c. 30, s. 4.

Conditions on search warrant

(4) A warrant obtained under subsection (2) shall contain such conditions as the justice of the peace considers advisable to ensure that any search authorized by the warrant is reasonable in the circumstances. 2006, c. 30, s. 4.

Time of execution

(5) An entry under a warrant issued under this section shall be made at such reasonable

times as may be specified in the warrant. 2006, c. 30, s. 4.

Expiry of warrant

(6) A warrant issued under this section shall name a date of expiry, which shall be no later than 15 days after the warrant is issued, but a justice of the peace may extend the date of expiry for an additional period of no more than 15 days, upon application without notice by the person named in the warrant. 2006, c. 30, s. 4.

Use of force

(7) The person authorized to execute the warrant may call upon police officers for assistance in executing the warrant and the person may use whatever force is reasonably necessary to execute the warrant. 2006, c. 30, s. 4.

Obstruction prohibited

(8) No person shall obstruct or hinder a person in the execution of a warrant issued under this section. 2006, c. 30, s. 4.

Application

(9) Subsections 31 (11), (12) and (13) apply with necessary modifications to an inquiry carried out pursuant to a warrant issued under this section. 2006, c. 30, s. 4.

Evidence used in Tribunal proceedings

31.2 Despite any other Act, evidence obtained on an inquiry under section 31 or 31.1 may be received into evidence in a proceeding before the Tribunal. 2006, c. 30, s. 4.

Anti-Racism Secretariat

31.3 (1) The Chief Commissioner directs the Anti-Racism Secretariat which shall be established in accordance with subsection (2). 2006, c. 30, s. 4.

Composition

(2) The Anti-Racism Secretariat shall be composed of not more than six persons appointed by the Lieutenant Governor in Council on the advice of the Chief Commissioner. 2006, c. 30, s. 4.

Remuneration

(3) The Lieutenant Governor in Council may fix the remuneration and allowance for expenses of the members of the Anti-Racism Secretariat. 2006, c. 30, s. 4.

Functions of the Secretariat

(4) At the direction of the Chief Commissioner, the Anti-Racism Secretariat shall,

(a) undertake, direct and encourage research into discriminatory practices that infringe rights under Part I on the basis of racism or a related ground and make recommendations to the Commission designed to prevent and eliminate such discriminatory practices;

(b) facilitate the development and provision of programs of public information and education relating to the elimination of racism; and

(c) undertake such tasks and responsibilities as may be assigned by the Chief

Commissioner. 2006, c. 30, s. 4.

Disability Rights Secretariat

31.4 (1) The Chief Commissioner directs the Disability Rights Secretariat which shall be established in accordance with subsection (2). 2006, c. 30, s. 4.

Composition

(2) The Disability Rights Secretariat shall be composed of not more than six persons appointed by the Lieutenant Governor in Council on the advice of the Chief Commissioner. 2006, c. 30, s. 4.

Remuneration

(3) The Lieutenant Governor in Council may fix the remuneration and allowance for expenses of the members of the Disability Rights Secretariat. 2006, c. 30, s. 4.

Functions of the Secretariat

- (4)** At the direction of the Chief Commissioner, the Disability Rights Secretariat shall,
- (a)** undertake, direct and encourage research into discriminatory practices that infringe rights under Part I on the basis of disability and make recommendations to the Commission designed to prevent and eliminate such discriminatory practices;
 - (b)** facilitate the development and provision of programs of public information and education intended to promote the elimination of discriminatory practices that infringe rights under Part I on the basis of disability; and
 - (c)** undertake such tasks and responsibilities as may be assigned by the Chief Commissioner. 2006, c. 30, s. 4.

Advisory groups

31.5 The Chief Commissioner may establish such advisory groups as he or she considers appropriate to advise the Commission about the elimination of discriminatory practices that infringe rights under this Act. 2006, c. 30, s. 4.

Annual report

31.6 (1) Every year, the Commission shall prepare an annual report on the affairs of the Commission that occurred during the 12-month period ending on March 31 of each year. 2006, c. 30, s. 4.

Report to Speaker

(2) The Commission shall submit the report to the Speaker of the Assembly no later than on June 30 in each year who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next session. 2006, c. 30, s. 4.

Copy to Minister

(3) The Commission shall give a copy of the report to the Minister at least 30 days before it is submitted to the Speaker under subsection (2). 2006, c. 30, s. 4.

Other reports

31.7 In addition to the annual report, the Commission may make any other reports

respecting the state of human rights in Ontario and the affairs of the Commission as it considers appropriate, and may present such reports to the public or any other person it considers appropriate. 2006, c. 30, s. 4.

See: 2006, c. 30, ss. 4, 12 (2).

PART IV ENFORCEMENT

Complaints

32. (1) Where a person believes that a right of the person under this Act has been infringed, the person may file with the Commission a complaint in a form approved by the Commission. R.S.O. 1990, c. H.19, s. 32 (1).

Idem

(2) The Commission may initiate a complaint by itself or at the request of any person. R.S.O. 1990, c. H.19, s. 32 (2).

Combining of complaints

(3) Where two or more complaints,

(a) bring into question a practice of infringement engaged in by the same person;
or

(b) have questions of law or fact in common,

the Commission may combine the complaints and deal with them in the same proceeding. R.S.O. 1990, c. H.19, s. 32 (3).

Investigation of complaints

33. (1) Subject to section 34, the Commission shall investigate a complaint and endeavour to effect a settlement. R.S.O. 1990, c. H.19, s. 33 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is repealed by the Statutes of Ontario, 1994, chapter 27, subsection 65 (7) and the following substituted:

Investigation of complaints

(1) Subject to section 34, the Commission shall investigate a complaint and may endeavour to effect a settlement.

See: 1994, c. 27, ss. 65 (7), 66 (1).

Investigation

(2) An investigation by the Commission may be made by a member or employee of the Commission who is authorized by the Commission for the purpose. R.S.O. 1990, c. H.19, s. 33 (2).

Powers on investigation

(3) A person authorized to investigate a complaint may,

(a) enter any place, other than a place that is being used as a dwelling, at any reasonable time, for the purpose of investigating the complaint;

(b) request the production for inspection and examination of documents or things that are or may be relevant to the investigation;

(c) upon giving a receipt therefor, remove from a place documents produced in response to a request under clause (b) for the purpose of making copies thereof or extracts therefrom and shall promptly return them to the person who produced or furnished them; and

(d) question a person on matters that are or may be relevant to the complaint subject to the person's right to have counsel or a personal representative present during such questioning, and may exclude from the questioning any person who may be adverse in interest to the complainant. R.S.O. 1990, c. H.19, s. 33 (3).

Entry into dwellings

(4) A person investigating a complaint shall not enter a place that is being used as a dwelling without the consent of the occupier except under the authority of a warrant issued under subsection (8). R.S.O. 1990, c. H.19, s. 33 (4).

Denial of entry

(5) Subject to subsection (4), if a person who is or may be a party to a complaint denies entry to any place, or instructs the person investigating to leave the place, or impedes or prevents an investigation therein, the Commission may refer the matter to the Tribunal or may authorize an employee or member to apply to a justice of the peace for a warrant to enter under subsection (8). R.S.O. 1990, c. H.19, s. 33 (5); 1994, c. 27, s. 65 (8); 2002, c. 18, Sched. C, s. 1.

Refusal to produce

(6) If a person refuses to comply with a request for production of documents or things, the Commission may refer the matter to the Tribunal, or may authorize an employee or member to apply to a justice of the peace for a search warrant under subsection (7). R.S.O. 1990, c. H.19, s. 33 (6); 1994, c. 27, s. 65 (9); 2002, c. 18, Sched. C, s. 1.

Warrant for search

(7) Where a justice of the peace is satisfied on evidence upon oath or affirmation that there are in a place documents that there is reasonable ground to believe will afford evidence relevant to the complaint, he or she may issue a warrant in the prescribed form authorizing a person named in the warrant to search a place for any such documents, and to remove them for the purposes of making copies thereof or extracts therefrom, and the documents shall be returned promptly to the place from which they were removed. R.S.O. 1990, c. H.19, s. 33 (7).

Warrant for entry

(8) Where a justice of the peace is satisfied by evidence upon oath or affirmation that there is reasonable ground to believe it is necessary that a place being used as a dwelling or to which entry has been denied be entered to investigate a complaint, he or she may issue a warrant in the prescribed form authorizing such entry by a person named in the warrant. R.S.O. 1990, c. H.19, s. 33 (8).

Execution of warrant

(9) A warrant issued under subsection (7) or (8) shall be executed at reasonable times as specified in the warrant. R.S.O. 1990, c. H.19, s. 33 (9).

Expiration of warrant

(10) Every warrant shall name a date on which it expires, which shall be a date not

later than fifteen days after it is issued. R.S.O. 1990, c. H.19, s. 33 (10).

Obstruction

(11) No person shall hinder, obstruct or interfere with a person in the execution of a warrant or otherwise impede an investigation under this Act. R.S.O. 1990, c. H.19, s. 33 (11).

Idem

(12) Subsection (11) is not contravened by a refusal to comply with a request for the production of documents or things made under clause (3) (b). R.S.O. 1990, c. H.19, s. 33 (12).

Admissibility of copies

(13) Copies of, or extracts from, documents removed from premises under clause (3) (c) or subsection (7) certified as being true copies of the originals by the person who made them, are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents of which they are copies or extracts. R.S.O. 1990, c. H.19, s. 33 (13).

Decision to not deal with complaint

34. (1) Where it appears to the Commission that,

- (a) the complaint is one that could or should be more appropriately dealt with under an Act other than this Act;
- (b) the subject-matter of the complaint is trivial, frivolous, vexatious or made in bad faith;
- (c) the complaint is not within the jurisdiction of the Commission; or
- (d) the facts upon which the complaint is based occurred more than six months before the complaint was filed, unless the Commission is satisfied that the delay was incurred in good faith and no substantial prejudice will result to any person affected by the delay,

the Commission may, in its discretion, decide to not deal with the complaint. R.S.O. 1990, c. H.19, s. 34 (1).

Notice of decision and reasons

(2) Where the Commission decides to not deal with a complaint, it shall advise the complainant in writing of the decision and the reasons therefor and of the procedure under section 37 for having the decision reconsidered. R.S.O. 1990, c. H.19, s. 34 (2).

Human Rights Tribunal of Ontario

35. (1) The Tribunal established under this section as it read immediately before the day the *Government Efficiency Act, 2002* receives Royal Assent is continued under the name Human Rights Tribunal of Ontario in English and Tribunal des droits de la personne de l'Ontario in French and shall be composed of such members as are appointed by the Lieutenant Governor in Council. 2002, c. 18, Sched. C, s. 6.

Remuneration

(2) The members of the Tribunal shall be paid such allowances and expenses as are fixed by the Lieutenant Governor in Council. 1994, c. 27, s. 65 (10); 2002, c. 18, Sched. C, s. 1.

Chair, vice-chair

(3) The Lieutenant Governor in Council shall appoint a chair and may appoint one or

more vice-chairs of the Tribunal from among the members of the Tribunal. 1994, c. 27, s. 65 (10); 2002, c. 18, Sched. C, s. 1.

Employees

(4) Such employees as are considered necessary for the proper conduct of the Tribunal may be appointed under the *Public Service Act*. 1994, c. 27, s. 65 (10); 2002, c. 18, Sched. C, s. 1.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (4) is amended by the Statutes of Ontario, 2006, chapter 35, Schedule C, subsection 54 (2) by striking out “the *Public Service Act*” at the end and substituting “Part III of the *Public Service of Ontario Act, 2006*”. See: 2006, c. 35, Sched. C, ss. 54 (2), 137 (1).

Note: If the Statutes of Ontario, 2006, chapter 30, section 5 comes into force on or before the day the Statutes of Ontario, 2006, chapter 35, Schedule C, subsection 54 (2) comes into force, subsection 54 (2) does not apply. See: 2006, c. 35, Sched. C, ss. 132 (4), 137 (1).

Rules

(5) The Tribunal may make rules regulating its practice and procedure and generally for the conduct and management of its affairs and such rules are not regulations within the meaning of the *Regulations Act*. 1994, c. 27, s. 65 (10); 2002, c. 18, Sched. C, s. 1.

Note: Effective October 19, 2007 or an earlier day to be named by proclamation of the Lieutenant Governor, subsection (5) is amended by the Statutes of Ontario, 2006, chapter 21, Schedule F, subsection 136 (1) by striking out “the *Regulations Act*” and substituting “Part III (Regulations) of the *Legislation Act, 2006*”. See: 2006, c. 21, Sched. F, ss. 136 (1), 143 (1). This amendment applies only if the Statutes of Ontario, 2006, chapter 21, Schedule F, subsection 136 (1) comes into force before section 6 of Bill 107 (*Human Rights Code Amendment Act, 2006*) introduced on April 26, 2006 comes into force. See: 2006, c. 21, Sched. F, ss. 137 (3), 143 (1).

Panels

(6) The chair of the Tribunal may appoint panels composed of one or more members of the Tribunal to hold hearings in the place of the full Tribunal wherever the Tribunal is required to hold a hearing under this Act and, where a panel holds a hearing, the panel has all the powers and duties, except the power in subsection (5), given to the Tribunal under this Act. 1994, c. 27, s. 65 (10); 2002, c. 18, Sched. C, s. 1.

Person designated to preside over panel

(7) The chair of the Tribunal shall designate one member of each panel to preside over the panel’s hearings. 1994, c. 27, s. 65 (10); 2002, c. 18, Sched. C, s. 1.

Reassignment of panel

(8) Where a panel of the Tribunal is unable for any reason to exercise the powers under section 39 or 41, the chair of the Tribunal may assign another panel in its place. 1994, c. 27, s. 65 (10); 2002, c. 18, Sched. C, s. 1.

Note: Any hearing commenced by a Tribunal (formerly known as a “board of inquiry”) appointed under this Code, as it read immediately before April 17, 1995, may be continued to its conclusion as if section 35 had not been re-enacted by the Statutes of Ontario, 1994, chapter 27, subsection 65 (10). See: 1994, c. 27, s. 65 (10, 11).

Referred to Tribunal

36. (1) Where the Commission does not effect a settlement of the complaint and it appears to the Commission that the procedure is appropriate and the evidence warrants an inquiry, the Commission may refer the subject-matter of the complaint to the Tribunal. 1994, c. 27, s. 65 (12); 2002, c. 18, Sched. C, s. 1.

Notice of decision not to refer to Tribunal

(2) Where the Commission decides to not refer the subject-matter of a complaint to the Tribunal, it shall advise the complainant and the person complained against in writing of the decision and the reasons therefor and inform the complainant of the procedure under section 37 for having the decision reconsidered. R.S.O. 1990, c. H.19, s. 36 (2); 1994, c. 27, s. 65 (13); 2002, c. 18, Sched. C, s. 1.

Reconsideration

37. (1) Within a period of fifteen days of the date of mailing the decision and reasons therefor mentioned in subsection 34 (2) or subsection 36 (2), or such longer period as the Commission may for special reasons allow, a complainant may request the Commission to reconsider its decision by filing an application for reconsideration containing a concise statement of the material facts upon which the application is based. R.S.O. 1990, c. H.19, s. 37 (1).

Notice of application

(2) Upon receipt of an application for reconsideration the Commission shall as soon as is practicable notify the person complained against of the application and afford the person an opportunity to make written submissions with respect thereto within such time as the Commission specifies. R.S.O. 1990, c. H.19, s. 37 (2).

Decision

(3) Every decision of the Commission on reconsideration together with the reasons therefor shall be recorded in writing and promptly communicated to the complainant and the person complained against and the decision shall be final. R.S.O. 1990, c. H.19, s. 37 (3).

38. Repealed: 1994, c. 27, s. 65 (14).

Hearing by Tribunal

39. (1) The Tribunal shall hold a hearing,

- (a) to determine whether a right of the complainant under this Act has been infringed;
- (b) to determine who infringed the right; and
- (c) to decide upon an appropriate order under section 41,

and the hearing shall be commenced within thirty days after the date on which the subject-matter of the complaint was referred to the Tribunal. R.S.O. 1990, c. H.19, s. 39 (1); 1994, c. 27, s. 65 (15); 2002, c. 18, Sched. C, s. 1.

Parties

(2) The parties to a proceeding before the Tribunal are,

- (a) the Commission, which shall have the carriage of the complaint;
- (b) the complainant;
- (c) any person who the Commission alleges has infringed the right;
- (d) any person appearing to the Tribunal to have infringed the right;
- (e) where the complaint is of alleged conduct constituting harassment under subsection 2 (2) or subsection 5 (2) or of alleged conduct under section 7, any person who, in the opinion of the Tribunal, knew or was in possession of facts from which the person ought reasonably to have known of the conduct and who had authority to penalize or prevent the conduct. R.S.O. 1990, c. H.19, s. 39 (2); 1994, c. 27, s. 65 (16); 2002, c. 18, Sched. C, s. 1.

Adding parties

(3) A party may be added by the Tribunal under clause (2) (d) or clause (2) (e) at any stage of the proceeding upon such terms as the Tribunal considers proper. R.S.O. 1990, c. H.19, s. 39 (3); 2002, c. 18, Sched. C, s. 1.

Adjournment on production

(4) Where the Tribunal exercises its power under clause 12 (1) (b) of the *Statutory Powers Procedure Act* to issue a summons requiring the production in evidence of documents or things, it may, upon the production of the documents or things before it, adjourn the proceedings to permit the parties to examine the documents or things. R.S.O. 1990, c. H.19, s. 39 (4); 1994, c. 27, s. 65 (17); 2002, c. 18, Sched. C, s. 1.

Adjournment for view

(5) The Tribunal may, where it appears to be in the interests of justice, direct that the Tribunal and the parties and their counsel or representatives shall have a view of any place or thing, and may adjourn the proceedings for that purpose. R.S.O. 1990, c. H.19, s. 39 (5); 2002, c. 18, Sched. C, s. 1.

Members at hearing not to have taken part in investigation, etc.

(6) A member of the Tribunal hearing a complaint must not have taken part in any investigation or consideration of the subject-matter of the inquiry before the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the inquiry with any person or with any party or any party's representative except upon notice to and opportunity for all parties to participate, but the Tribunal may seek legal advice from an adviser independent of the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law. 1994, c. 27, s. 65 (18); 2002, c. 18, Sched. C, s. 1.

40. Repealed: 1994, c. 27, s. 65 (19).

Orders of Tribunals

41. (1) Where the Tribunal, after a hearing, finds that a right of the complainant under Part I has been infringed and that the infringement is a contravention of section 9 by a party to the proceeding, the Tribunal may, by order,

- (a) direct the party to do anything that, in the opinion of the Tribunal, the party ought to do to achieve compliance with this Act, both in respect of the complaint and

in respect of future practices; and

(b) direct the party to make restitution, including monetary compensation, for loss arising out of the infringement, and, where the infringement has been engaged in wilfully or recklessly, monetary compensation may include an award, not exceeding \$10,000, for mental anguish. R.S.O. 1990, c. H.19, s. 41 (1); 2002, c. 18, Sched. C, s. 1.

Order to prevent harassment

(2) Where the Tribunal makes a finding under subsection (1) that a right is infringed on the ground of harassment under subsection 2 (2) or subsection 5 (2) or conduct under section 7, and the Tribunal finds that a person who is a party to the proceeding,

(a) knew or was in possession of knowledge from which the person ought to have known of the infringement; and

(b) had the authority by reasonably available means to penalize or prevent the conduct and failed to use it,

the Tribunal shall remain seized of the matter and upon complaint of a continuation or repetition of the infringement of the right the Commission may investigate the complaint and, subject to subsection 36 (2), request the Tribunal to re-convene and if the Tribunal finds that a person who is a party to the proceeding,

(c) knew or was in possession of knowledge from which the person ought to have known of the repetition of infringement; and

(d) had the authority by reasonably available means to penalize or prevent the continuation or repetition of the conduct and failed to use it,

the Tribunal may make an order requiring the person to take whatever sanctions or steps are reasonably available to prevent any further continuation or repetition of the infringement of the right. R.S.O. 1990, c. H.19, s. 41 (2); 1994, c. 27, s. 65 (20); 2002, c. 18, Sched. C, s. 1.

(3) Repealed: 1994, c. 27, s. 65 (21).

Costs

(4) Where, upon dismissing a complaint, the Tribunal finds that,

(a) the complaint was trivial, frivolous, vexatious or made in bad faith; or

(b) in the particular circumstances undue hardship was caused to the person complained against,

the Tribunal may order the Commission to pay to the person complained against such costs as are fixed by the Tribunal. R.S.O. 1990, c. H.19, s. 41 (4); 2002, c. 18, Sched. C, s. 1.

Decision within 30 days

(5) The Tribunal shall make its finding and decision within thirty days after the conclusion of its hearing. R.S.O. 1990, c. H.19, s. 41 (5); 2002, c. 18, Sched. C, s. 1.

41.1 Repealed: 1995, c. 4, s. 3 (3).

Appeal from decision of Tribunal

42. (1) Any party to a proceeding before the Tribunal may appeal from a decision or

order of the Tribunal to the Divisional Court in accordance with the rules of court. R.S.O. 1990, c. H.19, s. 42 (1); 1994, c. 27, s. 65 (23); 2002, c. 18, Sched. C, s. 1.

Record to be filed in court

(2) Where notice of an appeal is served under this section, the Tribunal shall forthwith file in the Divisional Court the record of the proceedings before it in which the decision or order appealed from was made and the record, together with a transcript of the oral evidence taken before the Tribunal if it is not part of the record of the Tribunal, shall constitute the record in the appeal. R.S.O. 1990, c. H.19, s. 42 (2); 2002, c. 18, Sched. C, s. 1.

Powers of court

(3) An appeal under this section may be made on questions of law or fact or both and the court may affirm or reverse the decision or order of the Tribunal or direct the Tribunal to make any decision or order that the Tribunal is authorized to make under this Act and the court may substitute its opinion for that of the Tribunal. R.S.O. 1990, c. H.19, s. 42 (3); 2002, c. 18, Sched. C, s. 1.

Settlements

43. Where a settlement of a complaint is agreed to in writing, signed by the parties and approved by the Commission, the settlement is binding upon the parties, and a breach of the settlement is grounds for a complaint under section 32, and this Part applies to the complaint in the same manner as if the breach of the settlement were an infringement of a right under this Act. R.S.O. 1990, c. H.19, s. 43.

Penalty

44. (1) Every person who contravenes section 9, subsection 33 (11), or an order of the Tribunal, is guilty of an offence and on conviction is liable to a fine of not more than \$25,000. R.S.O. 1990, c. H.19, s. 44 (1); 1994, c. 27, s. 65 (23); 2002, c. 18, Sched. C, s. 1.

Consent to prosecution

(2) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Attorney General. R.S.O. 1990, c. H.19, s. 44 (2).

Acts of officers, etc.

45. (1) For the purposes of this Act, except subsection 2 (2), subsection 5 (2), section 7 and subsection 44 (1), any act or thing done or omitted to be done in the course of his or her employment by an officer, official, employee or agent of a corporation, trade union, trade or occupational association, unincorporated association or employers' organization shall be deemed to be an act or thing done or omitted to be done by the corporation, trade union, trade or occupational association, unincorporated association or employers' organization. R.S.O. 1990, c. H.19, s. 45 (1).

Opinion re authority or acquiescence

(2) At the request of a corporation, trade union, trade or occupational association, unincorporated association or employers' organization, the Tribunal in its decision shall make known whether or not, in its opinion, an act or thing done or omitted to be done by an officer, official, employee or agent was done or omitted to be done with or without the authority or acquiescence of the corporation, trade union, trade or occupational association, unincorporated association or employers' organization, and the opinion does not affect the application of

subsection (1). R.S.O. 1990, c. H.19, s. 45 (2); 1994, c. 27, s. 65 (23); 2002, c. 18, Sched. C, s. 1.

Note: On a day to be named by proclamation of the Lieutenant Governor, Part IV is repealed by the Statutes of Ontario, 2006, chapter 30, section 5 and the following substituted:

PART IV HUMAN RIGHTS TRIBUNAL OF ONTARIO

Tribunal

32. (1) The Tribunal known as the Human Rights Tribunal of Ontario in English and Tribunal des droits de la personne de l'Ontario in French is continued. 2006, c. 30, s. 5.

Composition

(2) The Tribunal shall be composed of such members as are appointed by the Lieutenant Governor in Council in accordance with the selection process described in subsection (3). 2006, c. 30, s. 5.

Selection process

(3) The selection process for the appointment of members of the Tribunal shall be a competitive process and the criteria to be applied in assessing candidates shall include the following:

1. Experience, knowledge or training with respect to human rights law and issues.
2. Aptitude for impartial adjudication.
3. Aptitude for applying the alternative adjudicative practices and procedures that may be set out in the Tribunal rules. 2006, c. 30, s. 5.

Remuneration

(4) The members of the Tribunal shall be paid such remuneration and allowance for expenses as are fixed by the Lieutenant Governor in Council. 2006, c. 30, s. 5.

Term of office

(5) A member of the Tribunal shall be appointed for such term as may be specified by the Lieutenant Governor in Council. 2006, c. 30, s. 5.

Chair, vice-chair

(6) The Lieutenant Governor in Council shall appoint a chair and may appoint one or more vice-chairs of the Tribunal from among the members of the Tribunal. 2006, c. 30, s. 5.

Alternate chair

(7) The Lieutenant Governor in Council shall designate one of the vice-chairs to be the alternate chair. 2006, c. 30, s. 5.

Same

(8) If the chair is unable to act, the alternate chair shall perform the duties of the chair and, for this purpose, has all the powers of the chair. 2006, c. 30, s. 5.

Employees

(9) The Tribunal may appoint such employees as it considers necessary for the proper conduct of its affairs and the employees shall be appointed under the *Public Service Act*, 2006, c. 30, s. 5.

Note: On the later of the day the Statutes of Ontario, 2006, chapter 35, Schedule C, section 132 comes into force and the day the Statutes of Ontario, 2006, chapter 30, section 5 comes into force, subsection (9) is amended by the Statutes of Ontario, 2006, chapter 35, Schedule C, subsection 132 (6) by striking out “the *Public Service Act*” at the end and substituting “Part III of the *Public Service of Ontario Act, 2006*”. See: 2006, c. 35, Sched. C, ss. 132 (6), 137 (1).

Evidence obtained in course of proceeding

(10) A member or employee of the Tribunal shall not be required to give testimony in a civil suit or any proceeding as to information obtained in the course of a proceeding before the Tribunal. 2006, c. 30, s. 5.

Same

(11) Despite subsection (10), an employee of the Tribunal may be required to give testimony in a proceeding before the Tribunal in the circumstances prescribed by the Tribunal rules. 2006, c. 30, s. 5.

Panels

33. (1) The chair of the Tribunal may appoint panels composed of one or more members of the Tribunal to exercise and perform the powers and duties of the Tribunal. 2006, c. 30, s. 5.

Person designated to preside over panel

(2) If a panel of the Tribunal holds a hearing, the chair of the Tribunal shall designate one member of the panel to preside over the hearing. 2006, c. 30, s. 5.

Reassignment of panel

(3) If a panel of the Tribunal is unable for any reason to exercise or perform the powers or duties of the Tribunal, the chair of the Tribunal may assign another panel in its place. 2006, c. 30, s. 5.

Application by person

34. (1) If a person believes that any of his or her rights under Part I have been infringed, the person may apply to the Tribunal for an order under section 45.2,

- (a) within one year after the incident to which the application relates; or
- (b) if there was a series of incidents, within one year after the last incident in the series. 2006, c. 30, s. 5.

Late applications

(2) A person may apply under subsection (1) after the expiry of the time limit under that subsection if the Tribunal is satisfied that the delay was incurred in good faith and no substantial prejudice will result to any person affected by the delay. 2006, c. 30, s. 5.

Form

(3) An application under subsection (1) shall be in a form approved by the Tribunal. 2006, c. 30, s. 5.

Two or more persons

(4) Two or more persons who are each entitled to make an application under subsection (1) may file the applications jointly, subject to any provision in the Tribunal rules that authorizes the Tribunal to direct that one or more of the applications be considered in a separate proceeding. 2006, c. 30, s. 5.

Application on behalf of another

(5) A person or organization, other than the Commission, may apply on behalf of another person to the Tribunal for an order under section 45.2 if the other person,

- (a) would have been entitled to bring an application under subsection (1); and
- (b) consents to the application. 2006, c. 30, s. 5.

Participation in proceedings

(6) If a person or organization makes an application on behalf of another person, the person or organization may participate in the proceeding in accordance with the Tribunal rules. 2006, c. 30, s. 5.

Consent form

(7) A consent under clause (5) (b) shall be in a form specified in the Tribunal rules. 2006, c. 30, s. 5.

Time of application

(8) An application under subsection (5) shall be made within the time period required for making an application under subsection (1). 2006, c. 30, s. 5.

Application

(9) Subsections (2) and (3) apply to an application made under subsection (5). 2006, c. 30, s. 5.

Withdrawal of application

(10) An application under subsection (5) may be withdrawn by the person on behalf of whom the application is made in accordance with the Tribunal rules. 2006, c. 30, s. 5.

Where application barred

(11) A person who believes that one of his or her rights under Part I has been infringed may not make an application under subsection (1) with respect to that right if,

- (a) a civil proceeding has been commenced in a court in which the person is seeking an order under section 46.1 with respect to the alleged infringement and the proceeding has not been finally determined or withdrawn; or
- (b) a court has finally determined the issue of whether the right has been infringed or the matter has been settled. 2006, c. 30, s. 5.

Final determination

(12) For the purpose of subsection (11), a proceeding or issue has not been finally

determined if a right of appeal exists and the time for appealing has not expired. 2006, c. 30, s. 5.

Application by Commission

35. (1) The Commission may apply to the Tribunal for an order under section 45.3 if the Commission is of the opinion that,

- (a) it is in the public interest to make an application; and
- (b) an order under section 45.3 could provide an appropriate remedy. 2006, c. 30, s. 5.

Form

(2) An application under subsection (1) shall be in a form approved by the Tribunal. 2006, c. 30, s. 5.

Effect of application

(3) An application made by the Commission does not affect the right of a person to make an application under section 34 in respect of the same matter. 2006, c. 30, s. 5.

Applications dealt with together

(4) If a person or organization makes an application under section 34 and the Commission makes an application under this section in respect of the same matter, the two applications shall be dealt with together in the same proceeding unless the Tribunal determines otherwise. 2006, c. 30, s. 5.

Parties

36. The parties to an application under section 34 or 35 are the following:

1. In the case of an application under subsection 34 (1), the person who made the application.
2. In the case of an application under subsection 34 (5), the person on behalf of whom the application is made.
3. In the case of an application under section 35, the Commission.
4. Any person against whom an order is sought in the application.
5. Any other person or the Commission, if they are added as a party by the Tribunal. 2006, c. 30, s. 5.

Intervention by Commission

37. (1) The Commission may intervene in an application under section 34 on such terms as the Tribunal may determine having regard to the role and mandate of the Commission under this Act. 2006, c. 30, s. 5.

Intervention as a party

(2) The Commission may intervene as a party to an application under section 34 if the person or organization who made the application consents to the intervention as a party. 2006, c. 30, s. 5.

Disclosure of information to Commission

38. Despite anything in the *Freedom of Information and Protection of Privacy Act*, at the request of the Commission, the Tribunal shall disclose to the Commission copies of applications and responses filed with the Tribunal and may disclose to the Commission other documents in its custody or in its control. 2006, c. 30, s. 5.

Powers of Tribunal

39. The Tribunal has the jurisdiction to exercise the powers conferred on it by or under this Act and to determine all questions of fact or law that arise in any application before it. 2006, c. 30, s. 5.

Disposition of applications

40. The Tribunal shall dispose of applications made under this Part by adopting the procedures and practices provided for in its rules or otherwise available to the Tribunal which, in its opinion, offer the best opportunity for a fair, just and expeditious resolution of the merits of the applications. 2006, c. 30, s. 5.

Interpretation of Part and rules

41. This Part and the Tribunal rules shall be liberally construed to permit the Tribunal to adopt practices and procedures, including alternatives to traditional adjudicative or adversarial procedures that, in the opinion of the Tribunal, will facilitate fair, just and expeditious resolutions of the merits of the matters before it. 2006, c. 30, s. 5.

Statutory Powers Procedure Act

42. (1) The provisions of the *Statutory Powers Procedure Act* apply to a proceeding before the Tribunal unless they conflict with a provision of this Act, the regulations or the Tribunal rules. 2006, c. 30, s. 5.

Conflict

(2) Despite section 32 of the *Statutory Powers Procedure Act*, this Act, the regulations and the Tribunal rules prevail over the provisions of that Act with which they conflict. 2006, c. 30, s. 5.

Tribunal rules

43. (1) The Tribunal may make rules governing the practice and procedure before it. 2006, c. 30, s. 5.

Required practices and procedures

(2) The rules shall ensure that the following requirements are met with respect to any proceeding before the Tribunal:

1. An application that is within the jurisdiction of the Tribunal shall not be finally disposed of without affording the parties an opportunity to make oral submissions in accordance with the rules.
2. An application may not be finally disposed of without written reasons. 2006, c. 30, s. 5.

Same

(3) Without limiting the generality of subsection (1), the Tribunal rules may,

- (a) provide for and require the use of hearings or of practices and procedures that are provided for under the *Statutory Powers Procedure Act* or that are alternatives to traditional adjudicative or adversarial procedures;
- (b) authorize the Tribunal to,
 - (i) define or narrow the issues required to dispose of an application and limit the evidence and submissions of the parties on such issues, and
 - (ii) determine the order in which the issues and evidence in a proceeding will be presented;
- (c) authorize the Tribunal to conduct examinations in chief or cross-examinations of a witness;
- (d) prescribe the stages of its processes at which preliminary, procedural or interlocutory matters will be determined;
- (e) authorize the Tribunal to make or cause to be made such examinations of records and such other inquiries as it considers necessary in the circumstances;
- (f) authorize the Tribunal to require a party to a proceeding or another person to,
 - (i) produce any document, information or thing and provide such assistance as is reasonably necessary, including using any data storage, processing or retrieval device or system, to produce the information in any form,
 - (ii) provide a statement or oral or affidavit evidence, or
 - (iii) in the case of a party to the proceeding, adduce evidence or produce witnesses who are reasonably within the party's control; and
- (g) govern any matter prescribed by the regulations. 2006, c. 30, s. 5.

General or particular

- (4) The rules may be of general or particular application. 2006, c. 30, s. 5.

Consistency

- (5) The rules shall be consistent with this Part. 2006, c. 30, s. 5.

Not a regulation

- (6) The rules made under this section are not regulations for the purposes of the *Regulations Act*. 2006, c. 30, s. 5.

Note: On the later of (a) the day the Statutes of Ontario, 2006, chapter 30, section 5 comes into force and (b) October 19, 2007 or an earlier day to be named by proclamation of the Lieutenant Governor, subsection (6) is amended by the Statutes of Ontario, 2006, chapter 30, section 11 by striking out “the *Regulations Act*” at the end and substituting “Part III of the *Legislation Act, 2006*”. See: 2006, c. 30, s. 11.

Public consultations

- (7) The Tribunal shall hold public consultations before making a rule under this section. 2006, c. 30, s. 5.

Failure to comply with rules

(8) Failure on the part of the Tribunal to comply with the practices and procedures required by the rules or the exercise of a discretion under the rules by the Tribunal in a particular manner is not a ground for setting aside a decision of the Tribunal on an application for judicial review or any other form of relief, unless the failure or the exercise of a discretion caused a substantial wrong which affected the final disposition of the matter. 2006, c. 30, s. 5.

Adverse inference

(9) The Tribunal may draw an adverse inference from the failure of a party to comply, in whole or in part, with an order of the Tribunal for the party to do anything under a rule made under clause (3) (f). 2006, c. 30, s. 5.

Tribunal inquiry

44. (1) At the request of a party to an application under this Part, the Tribunal may appoint a person to conduct an inquiry under this section if the Tribunal is satisfied that,

- (a) an inquiry is required in order to obtain evidence;
- (b) the evidence obtained may assist in achieving a fair, just and expeditious resolution of the merits of the application; and
- (c) it is appropriate to do so in the circumstances. 2006, c. 30, s. 5.

Production of certificate

(2) A person conducting an inquiry under this section shall produce proof of their appointment upon request. 2006, c. 30, s. 5.

Entry

(3) A person conducting an inquiry under this section may, without warrant, enter any lands or any building, structure or premises where the person has reason to believe there may be evidence relevant to the application. 2006, c. 30, s. 5.

Time of entry

(4) The power to enter a place under subsection (3) may be exercised only during the place's regular business hours or, if it does not have regular business hours, during daylight hours. 2006, c. 30, s. 5.

Dwellings

(5) A person conducting an inquiry shall not enter into a place or part of a place that is a dwelling without the consent of the occupant. 2006, c. 30, s. 5.

Powers on inquiry

(6) A person conducting an inquiry may,

- (a) request the production for inspection and examination of documents or things that are or may be relevant to the inquiry;
- (b) upon giving a receipt for it, remove from a place documents produced in response to a request under clause (a) for the purpose of making copies or extracts;
- (c) question a person on matters that are or may be relevant to the inquiry, subject to the person's right to have counsel or a personal representative present during such questioning and exclude from the questioning any person who may be adverse in

interest to the inquiry;

- (d) use any data storage, processing or retrieval device or system used in carrying on business in the place in order to produce a document in readable form;
- (e) take measurements or record by any means the physical dimensions of a place;
- (f) take photographs, video recordings or other visual or audio recordings of the interior or exterior of a place; and
- (g) require that a place or part thereof not be disturbed for a reasonable period of time for the purposes of carrying out an examination, inquiry or test. 2006, c. 30, s. 5.

Written demand

(7) A demand that a document or thing be produced must be in writing and must include a statement of the nature of the document or thing required. 2006, c. 30, s. 5.

Assistance

(8) A person conducting an inquiry may be accompanied by any person who has special, expert or professional knowledge and who may be of assistance in carrying out the inquiry. 2006, c. 30, s. 5.

Use of force prohibited

(9) A person conducting an inquiry shall not use force to enter and search premises under this section. 2006, c. 30, s. 5.

Obligation to produce and assist

(10) A person who is requested to produce a document or thing under clause (6) (a) shall produce it and shall, on request by the person conducting the inquiry, provide any assistance that is reasonably necessary, including assistance in using any data storage, processing or retrieval device or system, to produce a document in readable form. 2006, c. 30, s. 5.

Return of removed things

(11) A person conducting an inquiry who removes any document or thing from a place under clause (6) (b) shall,

- (a) make it available to the person from whom it was removed, on request, at a time and place convenient for both that person and the person conducting the inquiry; and
- (b) return it to the person from whom it was removed within a reasonable time. 2006, c. 30, s. 5.

Admissibility of copies

(12) A copy of a document certified by a person conducting an inquiry to be a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value. 2006, c. 30, s. 5.

Obstruction

(13) No person shall obstruct or interfere with a person conducting an inquiry under this section. 2006, c. 30, s. 5.

Inquiry report

[\(14\)](#) A person conducting an inquiry shall prepare a report and submit it to the Tribunal and the parties to the application that gave rise to the inquiry in accordance with the Tribunal rules. 2006, c. 30, s. 5.

Transfer of inquiry to Commission

[\(15\)](#) The Commission may, at the request of the Tribunal, appoint a person to conduct an inquiry under this section and the person so appointed has all of the powers of a person appointed by the Tribunal under this section and shall report to the Tribunal in accordance with subsection (14). 2006, c. 30, s. 5.

Deferral of application

[45.](#) The Tribunal may defer an application in accordance with the Tribunal rules. 2006, c. 30, s. 5.

Dismissal in accordance with rules

[45.1](#) The Tribunal may dismiss an application, in whole or in part, in accordance with its rules if the Tribunal is of the opinion that another proceeding has appropriately dealt with the substance of the application. 2006, c. 30, s. 5.

Orders of Tribunal: applications under s. 34

[45.2 \(1\)](#) On an application under section 34, the Tribunal may make one or more of the following orders if the Tribunal determines that a party to the application has infringed a right under Part I of another party to the application:

1. An order directing the party who infringed the right to pay monetary compensation to the party whose right was infringed for loss arising out of the infringement, including compensation for injury to dignity, feelings and self-respect.
2. An order directing the party who infringed the right to make restitution to the party whose right was infringed, other than through monetary compensation, for loss arising out of the infringement, including restitution for injury to dignity, feelings and self-respect.
3. An order directing any party to the application to do anything that, in the opinion of the Tribunal, the party ought to do to promote compliance with this Act. 2006, c. 30, s. 5.

Orders under par. 3 of subs. (1)

[\(2\)](#) For greater certainty, an order under paragraph 3 of subsection (1),

- (a) may direct a person to do anything with respect to future practices; and
- (b) may be made even if no order under that paragraph was requested. 2006, c. 30, s. 5.

Orders of Tribunal: applications under s. 35

[45.3 \(1\)](#) If, on an application under section 35, the Tribunal determines that any one or more of the parties to the application have infringed a right under Part I, the Tribunal may make an order directing any party to the application to do anything that, in the opinion of the Tribunal, the party ought to do to promote compliance with this Act. 2006, c. 30, s. 5.

Same

(2) For greater certainty, an order under subsection (1) may direct a person to do anything with respect to future practices. 2006, c. 30, s. 5.

Matters referred to Commission

45.4 (1) The Tribunal may refer any matters arising out of a proceeding before it to the Commission if, in the Tribunal's opinion, they are matters of public interest or are otherwise of interest to the Commission. 2006, c. 30, s. 5.

Same

(2) The Commission may, in its discretion, decide whether to deal with a matter referred to it by the Tribunal. 2006, c. 30, s. 5.

Documents published by Commission

45.5 (1) In a proceeding under this Part, the Tribunal may consider policies approved by the Commission under section 30. 2006, c. 30, s. 5.

Same

(2) Despite subsection (1), the Tribunal shall consider a policy approved by the Commission under section 30 in a proceeding under this Part if a party to the proceeding or an intervenor requests that it do so. 2006, c. 30, s. 5.

Stated case to Divisional court

45.6 (1) If the Tribunal makes a final decision or order in a proceeding in which the Commission was a party or an intervenor, and the Commission believes that the decision or order is not consistent with a policy that has been approved by the Commission under section 30, the Commission may apply to the Tribunal to have the Tribunal state a case to the Divisional Court. 2006, c. 30, s. 5.

Same

(2) If the Tribunal determines that the application of the Commission relates to a question of law and that it is appropriate to do so, it may state the case in writing for the opinion of the Divisional Court upon the question of law. 2006, c. 30, s. 5.

Parties

(3) The parties to a stated case under this section are the parties to the proceeding referred to in subsection (1) and, if the Commission was an intervenor in that proceeding, the Commission. 2006, c. 30, s. 5.

Submissions by Tribunal

(4) The Divisional Court may hear submissions from the Tribunal. 2006, c. 30, s. 5.

Powers of Divisional Court

(5) The Divisional Court shall hear and determine the stated case. 2006, c. 30, s. 5.

No stay

(6) Unless otherwise ordered by the Tribunal or the Divisional Court, an application by the Commission under subsection (1) or the stating of a case to the Divisional Court under

subsection (2) does not operate as a stay of the final decision or order of the Tribunal. 2006, c. 30, s. 5.

Reconsideration of Tribunal decision

(7) Within 30 days of receipt of the decision of the Divisional Court, any party to the stated case proceeding may apply to the Tribunal for a reconsideration of its original decision or order in accordance with section 45.7. 2006, c. 30, s. 5.

Reconsideration of Tribunal decision

45.7 (1) Any party to a proceeding before the Tribunal may request that the Tribunal reconsider its decision in accordance with the Tribunal rules. 2006, c. 30, s. 5.

Same

(2) Upon request under subsection (1) or on its own motion, the Tribunal may reconsider its decision in accordance with its rules. 2006, c. 30, s. 5.

Decisions final

45.8 Subject to section 45.6 of this Act, section 21.1 of the *Statutory Powers Procedure Act* and the Tribunal rules, a decision of the Tribunal is final and not subject to appeal and shall not be altered or set aside in an application for judicial review or in any other proceeding unless the decision is patently unreasonable. 2006, c. 30, s. 5.

Settlements

45.9 (1) If a settlement of an application made under section 34 or 35 is agreed to in writing and signed by the parties, the settlement is binding on the parties. 2006, c. 30, s. 5.

Consent order

(2) If a settlement of an application made under section 34 or 35 is agreed to in writing and signed by the parties, the Tribunal may, on the joint motion of the parties, make an order requiring compliance with the settlement or any part of the settlement. 2006, c. 30, s. 5.

Application where contravention

(3) If a settlement of an application made under section 34 or 35 is agreed to in writing and signed by the parties, a party who believes that another party has contravened the settlement may make an application to the Tribunal for an order under subsection (8),

- (a) within six months after the contravention to which the application relates; or
- (b) if there was a series of contraventions, within six months after the last contravention in the series. 2006, c. 30, s. 5.

Late applications

(4) A person may apply under subsection (3) after the expiry of the time limit under that subsection if the Tribunal is satisfied that the delay was incurred in good faith and no substantial prejudice will result to any person affected by the delay. 2006, c. 30, s. 5.

Form of application

(5) An application under subsection (3) shall be in a form approved by the Tribunal. 2006, c. 30, s. 5.

Parties

(6) Subject to the Tribunal rules, the parties to an application under subsection (3) are the following:

1. The parties to the settlement.
2. Any other person or the Commission, if they are added as a party by the Tribunal. 2006, c. 30, s. 5.

Intervention by Commission

(7) Section 37 applies with necessary modifications to an application under subsection (3). 2006, c. 30, s. 5.

Order

(8) If, on an application under subsection (3), the Tribunal determines that a party has contravened the settlement, the Tribunal may make any order that it considers appropriate to remedy the contravention. 2006, c. 30, s. 5.

Annual report

45.10 (1) The Tribunal shall make a report to the Minister not later than June 30 in each year upon the affairs of the Tribunal during the year ending on March 31 of that year. 2006, c. 30, s. 5.

Report laid in Assembly

(2) The Minister shall submit the report to the Lieutenant Governor in Council who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next session. 2006, c. 30, s. 5.

See: 2006, c. 30, ss. 5, 12 (2).

PART IV.1 HUMAN RIGHTS LEGAL SUPPORT CENTRE

Centre established

45.11 (1) A corporation without share capital is established under the name Human Rights Legal Support Centre in English and Centre d'assistance juridique en matière de droits de la personne in French. 2006, c. 30, s. 6.

Membership

(2) The members of the Centre shall consist of its board of directors. 2006, c. 30, s. 6.

Not a Crown agency

(3) The Centre is not an agent of Her Majesty nor a Crown agent for the purposes of the *Crown Agency Act*. 2006, c. 30, s. 6.

Powers of natural person

(4) The Centre has the capacity and the rights, powers and privileges of a natural person, subject to the limitations set out in this Act or the regulations. 2006, c. 30, s. 6.

Independent from but accountable to Ontario

(5) The Centre shall be independent from, but accountable to, the Government of

Ontario as set out in this Act. 2006, c. 30, s. 6.

Objects

45.12 The objects of the Centre are,

- (a) to establish and administer a cost-effective and efficient system for providing support services, including legal services, respecting applications to the Tribunal under Part IV;
- (b) to establish policies and priorities for the provision of support services based on its financial resources. 2006, c. 30, s. 6.

Provision of support services

45.13 (1) The Centre shall provide the following support services:

1. Advice and assistance, legal and otherwise, respecting the infringement of rights under Part I.
2. Legal services in relation to,
 - i. the making of applications to the Tribunal under Part IV,
 - ii. proceedings before the Tribunal under Part IV,
 - iii. applications for judicial review arising from Tribunal proceedings,
 - iv. stated case proceedings,
 - v. the enforcement of Tribunal orders.
3. Such other services as may be prescribed by regulation. 2006, c. 30, s. 6.

Availability of services

(2) The Centre shall ensure that the support services are available throughout the Province, using such methods of delivering the services as the Centre believes are appropriate. 2006, c. 30, s. 6.

Board of directors

45.14 (1) The affairs of the Centre shall be governed and managed by its board of directors. 2006, c. 30, s. 6.

Composition and appointment

(2) The board of directors of the Centre shall consist of no fewer than five and no more than nine members appointed by the Lieutenant Governor in Council in accordance with the regulations. 2006, c. 30, s. 6.

Appointment of Chair

(3) A Chair designated by the Lieutenant Governor in Council will preside at meetings. 2006, c. 30, s. 6.

Remuneration

(4) The board of directors may be remunerated as determined by the Lieutenant Governor in Council. 2006, c. 30, s. 6.

Duties

(5) The board of directors of the Centre shall be responsible for furthering the objects of the Centre. 2006, c. 30, s. 6.

Delegation

(6) The board of directors may delegate any power or duty to any committee, to any member of a committee or to any officer or employee of the Centre. 2006, c. 30, s. 6.

Same

(7) A delegation shall be in writing and shall be on the terms and subject to the limitations, conditions or requirements specified in it. 2006, c. 30, s. 6.

Board to act responsibly

(8) The board of directors shall act in a financially responsible and accountable manner in exercising its powers and performing its duties. 2006, c. 30, s. 6.

Standard of care

(9) Members of the board of directors shall act in good faith with a view to the objects of the Centre and shall exercise the care, diligence and skill of a reasonably prudent person. 2006, c. 30, s. 6.

Government funding

45.15 (1) The Centre shall submit its annual budget to the Minister for approval every year in a manner and form, and at a time, specified in the regulations. 2006, c. 30, s. 6.

Approved budget included in estimates

(2) If approved by the Minister, the annual budget shall be submitted to Cabinet to be reviewed for inclusion in the estimates of the Ministry. 2006, c. 30, s. 6.

Appropriation by Legislature

(3) The money required for the purposes of this Act shall be paid out of such money as is appropriated therefor by the Legislature. 2006, c. 30, s. 6.

Centre's money not part of Consolidated Revenue Fund

45.16 The Centre's money and investments do not form part of the Consolidated Revenue Fund and shall be used by the Centre in carrying out its objects. 2006, c. 30, s. 6.

Annual report

45.17 (1) The Centre shall submit an annual report to the Minister within four months after the end of its fiscal year. 2006, c. 30, s. 6.

Fiscal year

(2) The fiscal year of the Centre shall be from April 1 to March 31 of the following year. 2006, c. 30, s. 6.

Audit

45.18 (1) The Centre must ensure that its books of financial account are audited annually in accordance with generally accepted accounting principles and a copy of the audit is given to the Minister. 2006, c. 30, s. 6.

Audit by Minister

(2) The Minister has the right to audit the Centre at any time that the Minister chooses. 2006, c. 30, s. 6.

PART V GENERAL

Definitions, general

46. In this Act,

“Commission” means the Ontario Human Rights Commission; (“Commission”)

“Minister” means the member of the Executive Council to whom the powers and duties of the Minister under this Act are assigned by the Lieutenant Governor in Council; (“ministre”)

“person” in addition to the extended meaning given it by the *Interpretation Act*, includes an employment agency, an employers’ organization, an unincorporated association, a trade or occupational association, a trade union, a partnership, a municipality, a board of police commissioners established under the *Police Act*, being chapter 381 of the Revised Statutes of Ontario, 1980, and a police services board established under the *Police Services Act*; (“personne”)

Note: Effective October 19, 2007 or an earlier day to be named by proclamation of the Lieutenant Governor, the definition of “person” is amended by the Statutes of Ontario, 2006, chapter 21, Schedule F, subsection 136 (2) by striking out “the *Interpretation Act*” and substituting “Part VI (Interpretation) of the *Legislation Act, 2006*”. See: 2006, c. 21, Sched. F, ss. 136 (2), 143 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 46 is amended by the Statutes of Ontario, 2006, chapter 30, subsection 7 (1) by adding the following definition:

“regulations” means the regulations made under this Act; (“règlements”)

See: 2006, c. 30, ss. 7 (1), 12 (2).

“Tribunal” means the Human Rights Tribunal of Ontario continued under section 35.

(“Tribunal”) R.S.O. 1990, c. H.19, s. 46; 1994, c. 27, s. 65 (24); 2002, c. 18, Sched. C, s. 7.

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “Tribunal” is amended by the Statutes of Ontario, 2006, chapter 30, subsection 7 (2) by striking out “section 35” at the end and substituting “section 32”. See: 2006, c. 30, ss. 7 (2), 12 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 46 is amended by the Statutes of Ontario, 2006, chapter 30, subsection 7 (3) by adding the following definition:

“Tribunal rules” means the rules governing practice and procedure that are made by the Tribunal under section 43. (“règles du Tribunal”)

See: 2006, c. 30, ss. 7 (3), 12 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by the Statutes of Ontario, 2006, chapter 30, section 8 by adding the following sections:

Civil remedy

46.1 (1) If, in a civil proceeding in a court, the court finds that a party to the proceeding has infringed a right under Part I of another party to the proceeding, the court may make either of the following orders, or both:

1. An order directing the party who infringed the right to pay monetary compensation to the party whose right was infringed for loss arising out of the infringement, including compensation for injury to dignity, feelings and self-respect.
2. An order directing the party who infringed the right to make restitution to the party whose right was infringed, other than through monetary compensation, for loss arising out of the infringement, including restitution for injury to dignity, feelings and self-respect. 2006, c. 30, s. 8.

Same

(2) Subsection (1) does not permit a person to commence an action based solely on an infringement of a right under Part I. 2006, c. 30, s. 8.

Penalty

46.2 (1) Every person who contravenes section 9 or subsection 31 (14), 31.1 (8) or 44 (13) or an order of the Tribunal is guilty of an offence and on conviction is liable to a fine of not more than \$25,000. 2006, c. 30, s. 8.

Consent to prosecution

(2) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Attorney General. 2006, c. 30, s. 8.

Acts of officers, etc.

46.3 (1) For the purposes of this Act, except subsection 2 (2), subsection 5 (2), section 7 and subsection 46.2 (1), any act or thing done or omitted to be done in the course of his or her employment by an officer, official, employee or agent of a corporation, trade union, trade or occupational association, unincorporated association or employers' organization shall be deemed to be an act or thing done or omitted to be done by the corporation, trade union, trade or occupational association, unincorporated association or employers' organization. 2006, c. 30, s. 8.

Opinion re authority or acquiescence

(2) At the request of a corporation, trade union, trade or occupational association, unincorporated association or employers' organization, the Tribunal in its decision shall make known whether or not, in its opinion, an act or thing done or omitted to be done by an officer, official, employee or agent was done or omitted to be done with or without the authority or acquiescence of the corporation, trade union, trade or occupational association, unincorporated association or employers' organization, and the opinion does not affect the application of subsection (1). 2006, c. 30, s. 8.

See: 2006, c. 30, ss. 8, 12 (2).

Act binds Crown

47. (1) This Act binds the Crown and every agency of the Crown. R.S.O. 1990, c. H.19, s. 47 (1).

Act has primacy over other Acts

(2) Where a provision in an Act or regulation purports to require or authorize conduct that is a contravention of Part I, this Act applies and prevails unless the Act or regulation specifically provides that it is to apply despite this Act. R.S.O. 1990, c. H.19, s. 47 (2).

Regulations

48. The Lieutenant Governor in Council may make regulations,

(a) prescribing standards for assessing what is undue hardship for the purposes of section 11, 17 or 24;

(a.1) prescribing the manner in which income information, credit checks, credit references, rental history, guarantees or other similar business practices may be used by a landlord in selecting prospective tenants without infringing section 2, and prescribing other similar business practices and the manner of their use, for the purposes of subsection 21 (3);

(b) prescribing forms and notices and providing for their use;

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (b) is repealed by the Statutes of Ontario, 2006, chapter 30, subsection 9 (1) and the following substituted:

(b) prescribing matters for the purposes of clause 43 (3) (g);

See: 2006, c. 30, ss. 9 (1), 12 (2).

(c) prescribing time limits for the production of documents and things requested in an investigation under clause 33 (3) (b);

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (c) is repealed by the Statutes of Ontario, 2006, chapter 30, subsection 9 (1) and the following substituted:

(c) respecting the Human Rights Legal Support Centre;

See: 2006, c. 30, ss. 9 (1), 12 (2).

(d) prescribing procedures for carrying out an investigation under section 33;

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (d) is repealed by the Statutes of Ontario, 2006, chapter 30, subsection 9 (1) and the following substituted:

(d) governing any matter that is necessary or advisable for the effective enforcement and administration of this Act.

See: 2006, c. 30, ss. 9 (1), 12 (2).

(e) prescribing matters that the Commission shall consider in deciding whether or not to endeavour to effect a settlement under subsection 33 (1). R.S.O. 1990, c. H.19, s. 48; 1994, c. 27, s. 65 (25); 1997, c. 24, s. 212 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (e) is repealed by the Statutes of Ontario, 2006, chapter 30, subsection 9 (1). See: 2006, c. 30, ss. 9 (1), 12 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 48 is amended by the Statutes of Ontario, 2006, chapter 30, subsection 9 (2) by adding the following subsection:

Human Rights Legal Support Centre

(2) A regulation made under clause (1) (c) may,

- (a) further define the Centre's constitution, management and structure as set out in Part IV.1;
- (b) prescribe powers and duties of the Centre and its members;
- (c) provide for limitations on the Centre's powers under subsection 45.11 (4);
- (d) prescribe services for the purposes of paragraph 3 of subsection 45.13 (1);
- (e) further define the nature and scope of support services referred to in subsection 45.13 (1);
- (f) provide for factors to be considered in appointing members and specify the circumstances and manner in which they are to be considered;
- (g) provide for the term of appointment and reappointment of the Centre's members;
- (h) provide for the nature and scope of the annual report required under section 45.17;
- (i) provide for reporting requirements in addition to the annual report;
- (j) provide for personal information to be collected by or on behalf of the Centre other than directly from the individual to whom the information relates, and for the manner in which the information is collected;
- (k) provide for the transfer from specified persons or entities of information, including personal information, that is relevant to carrying out the functions of the Centre;
- (l) provide for rules governing the confidentiality and security of information, including personal information, the collection, use and disclosure of such information, the retention and disposal of such information, and access to and correction of such information, including restrictions on any of these things, for the purposes of the carrying out of the functions of the Centre;
- (m) specify requirements and conditions for the funding of the Centre and for the

Centre's budget;

- (n) provide for audits of the statements and records of the Centre;
- (o) determine whether or not the *Business Corporations Act*, the *Corporations Information Act* or the *Corporations Act* or any provisions of those Acts apply to the Centre;
- (p) provide for anything necessary or advisable for the purposes of Part IV.1. 2006, c. 30, s. 9 (2).

See: 2006, c. 30, ss. 9 (2), 12 (2).

PART VI TRANSITIONAL PROVISIONS

Definitions

49. In this Part,

“effective date” means the day sections 4 and 5 of the *Human Rights Code Amendment Act, 2006* come into force; (“date d’effet”)

“new Part IV” means Part IV as it reads on and after the effective date; (“nouvelle partie IV”)

“old Part IV” means Part IV as it reads before the effective date. (“ancienne partie IV”) 2006, c. 30, s. 10.

Orders respecting special programs

50. On the fifth anniversary of the effective date, all orders that were made by the Commission under subsection 14 (2) before the effective date shall be null and void. 2006, c. 30, s. 10.

Application of s. 32 (3)

51. Subsection 32 (3) applies to the selection and appointment of persons to the Tribunal on or after the day section 10 of the *Human Rights Code Amendment Act, 2006* comes into force. 2006, c. 30, s. 10.

Tribunal powers before effective date

52. (1) Despite anything to the contrary in the old Part IV, the Tribunal may, before the effective date,

- (a) make rules in accordance with the new Part IV, including rules with respect to the reconsideration of Tribunal decisions; and
- (b) when dealing with complaints that are referred to it under section 36 of the old Part IV,
 - (i) deal with the complaint in accordance with the practices and procedures set out in the rules made under clause (a),
 - (ii) exercise the powers described in section 39 of the new Part IV,and

(iii) dispose of the complaint in accordance with section 40 of the new Part IV. 2006, c. 30, s. 10.

Application

(2) Sections 41 and 42 of the new Part IV apply to rules made under clause (1) (a). 2006, c. 30, s. 10.

Tribunal decisions made before effective date

(3) Despite anything in the old Part IV, the following applies before the effective date with respect to a complaint that is referred to the Tribunal by the Commission under section 36 of the old Part IV on or after the day section 10 of the *Human Rights Code Amendment Act, 2006* comes into force:

1. Section 42 of the old Part IV does not apply to a decision of the Tribunal made with respect to the complaint.
2. Sections 45.7 and 45.8 of the new Part IV apply to a decision of the Tribunal made with respect to the complaint. 2006, c. 30, s. 10.

Complaints before Commission on effective date

53. (1) This section applies to a complaint filed with the Commission under subsection 32 (1) of the old Part IV or initiated by the Commission under subsection 32 (2) of the old Part IV before the effective date. 2006, c. 30, s. 10.

Commission powers continued for six months

(2) Subject to subsection (3) and despite the repeal of the old Part IV, during the six-month period that begins on the effective date, the Commission shall continue to deal with complaints referred to in subsection (1) in accordance with subsection 32 (3) and sections 33, 34, 36, 37 and 43 of the old Part IV and, for that purpose,

- (a) the Commission has all the powers described in subsection 32 (3) and sections 33, 34, 36, 37 and 43 of the old Part IV; and
- (b) the provisions referred to in clause (a) continue to apply with respect to the complaints, with necessary modifications. 2006, c. 30, s. 10.

Applications to Tribunal during six-month period

(3) Subject to subsection (4), at any time during the six-month period referred to in subsection (2), the person who made a complaint that is continued under that subsection may, in accordance with the Tribunal rules, elect to abandon the complaint and make an application to the Tribunal with respect to the subject-matter of the complaint. 2006, c. 30, s. 10.

Expedited process

(4) The Tribunal shall make rules with respect to the practices and procedures that apply to an application under subsection (3) in order to ensure that the applications are dealt with in an expeditious manner. 2006, c. 30, s. 10.

Applications to Tribunal after six-month period

(5) If, after the end of the six-month period referred to in subsection (2), the Commission has failed to deal with the merits of a complaint continued under that subsection and the complaint has not been withdrawn or settled, the complainant may make an application to the Tribunal with respect to the subject-matter of the complaint within a further six-month period after the end of the earlier six-month period. 2006, c. 30, s. 10.

New Part IV applies

(6) The new Part IV applies to an application made under subsections (3) and (5). 2006, c. 30, s. 10.

Disclosure of information

(7) Despite anything in the *Freedom of Information and Protection of Privacy Act*, at the request of a party to an application under subsection (3) or (5), the Commission may disclose to the party any information obtained by the Commission in the course of an investigation. 2006, c. 30, s. 10.

Application barred

(8) No application, other than an application under subsection (3) or (5), may be made to the Tribunal if the subject-matter of the application is the same or substantially the same as the subject-matter of a complaint that was filed with the Commission under the old Part IV. 2006, c. 30, s. 10.

Settlements effected by Commission

- 54.** Section 45.9 of the new Part IV applies to the enforcement of a settlement that,
- (a) was effected by the Commission under the old Part IV before the effective date or during the six-month period referred to in subsection 53 (2); and
 - (b) was agreed to in writing, signed by the parties and approved by the Commission. 2006, c. 30, s. 10.

Where complaints referred to Tribunal

55. (1) This section applies to complaints that are referred to the Tribunal by the Commission under section 36 of the old Part IV before the effective date or during the six-month period referred to in subsection 53 (2). 2006, c. 30, s. 10.

New Part IV applies

(2) On and after the effective date, the new Part IV applies to a complaint described in subsection (1) as though it were an application made to the Tribunal under that Part and the Tribunal shall deal with the complaint in accordance with the new Part IV. 2006, c. 30, s. 10.

Parties

- (3) The Commission,
- (a) shall continue to be a party to a complaint that was referred to the Tribunal before the effective date; and
 - (b) subject to subsection (4), shall not be a party to a complaint referred to the Tribunal during the six-month period referred to in subsection 53 (2). 2006, c. 30, s. 10.

Same, exceptions

- (4) The Commission shall continue as a party to a complaint that was referred to the Tribunal during the six-month period referred to in subsection 53 (2) if,
- (a) the complaint was initiated by the Commission under subsection 32 (2) of the old Part IV; or
 - (b) the Tribunal sets a date for the parties to appear before the Tribunal before the

end of the six-month period. 2006, c. 30, s. 10.

Same

(5) Nothing in subsection (3) shall prevent,

(a) the Tribunal from adding the Commission as a party to a proceeding under section 36 of the new Part IV; or

(b) the Commission from intervening in a proceeding with respect to a complaint described in subsection (1). 2006, c. 30, s. 10.

Regulations, transitional matters

56. (1) The Lieutenant Governor in Council may make regulations providing for transitional matters which, in the opinion of the Lieutenant Governor in Council, are necessary or desirable to facilitate the implementation of the *Human Rights Code Amendment Act, 2006*. 2006, c. 30, s. 10.

Same

(2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,

(a) providing for transitional matters relating to the changes to the administration and functions of the Commission;

(b) dealing with any problems or issues arising as a result of the repeal or enactment of a provision of this Act by the *Human Rights Code Amendment Act, 2006*. 2006, c. 30, s. 10.

Same

(3) A regulation under this section may be general or specific in its application. 2006, c. 30, s. 10.

Conflicts

(4) If there is a conflict between a provision in a regulation under this section and any provision of this Act or of any other regulation made under this Act, the regulation under this section prevails. 2006, c. 30, s. 10.

Review

57. (1) Three years after the effective date, the Minister shall appoint a person who shall undertake a review of the implementation and effectiveness of the changes resulting from the enactment of that Act. 2006, c. 30, s. 10.

Public consultations

(2) In conducting a review under this section, the person appointed under subsection (1) shall hold public consultations. 2006, c. 30, s. 10.

Report to Minister

(3) The person appointed under subsection (1) shall prepare a report on his or her findings and submit the report to the Minister within one year of his or her appointment. 2006, c. 30, s. 10.

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