

1980 BILL 56

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Second Session, 19th Legislature, 29 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 56**

**THE INDIVIDUAL'S RIGHTS PROTECTION  
AMENDMENT ACT, 1980**

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HONOURABLE LES YOUNG

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

*Bill 56*

## **BILL 56**

1980

### **THE INDIVIDUAL'S RIGHTS PROTECTION AMENDMENT ACT, 1980**

*(Assented to , 1980)*

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

*1 The Individual's Rights Protection Act is amended by this Act.*

*2 In the following provisions "physical characteristics," is added  
after "sex,":*

the Preamble;  
section 2(1);  
section 3;  
section 4;  
section 6(1);  
section 7(1)(a);  
section 9;  
section 14(1)(a) and (c).

## Explanatory Notes

**1** This Bill will amend chapter 2 of the Statutes of Alberta, 1972.

**2** The Preamble and sections 2(1), 3, 4, 6(1), 7(1)(a), 9 and 14(1)(a) and (c) presently read in part:

*WHEREAS it is recognized in Alberta as a fundamental principle and as a matter of public policy that all persons are equal in dignity and rights without regard to race, religious beliefs, colour, sex, age, ancestry or place of origin; and*

*2(1) No person shall publish or display before the public or cause to be published or displayed before the public any notice, sign, symbol, emblem or other representation indicating discrimination or an intention to discriminate against any person or class of persons for any purpose because of the race, religious beliefs, colour, sex, age, ancestry or place of origin of that person or class of persons.*

*3 No person, directly or indirectly, alone or with another, by himself or by the interposition of another, shall*

*(a) deny to any person or class of persons any accommodation, services or facilities customarily available to the public, or*

*(b) discriminate against any person or class of persons with respect to any accommodation, services or facilities customarily available to the public,*

*because of the race, religious beliefs, colour, sex, ancestry or place of origin of that person or class of persons or of any other person or class of persons.*

*4 No person, directly or indirectly, alone or with another, by himself or by the interposition of another, shall*

*(a) deny to any person or class of persons the right to occupy as a tenant, any commercial unit or self-contained dwelling unit that is advertised or otherwise in any way represented as being available for occupancy by a tenant, or*

*(b) discriminate against any person or class of persons with respect to any*

3 *The following is added after section 4:*

**4.1** Notwithstanding section 1, no person who is the owner of, or is responsible for the use, occupancy, construction or alteration of, a building as defined in *The Alberta Uniform Building Standards Act* shall, by reason only of the condition of the building, be found to have contravened section 3 or 4 as it relates to denial or discrimination on the basis of physical characteristics if he establishes that the building complies with the applicable requirements of that Act and the regulations under that Act.

*term or condition of the tenancy of any commercial unit or self-contained dwelling units,*

*because of the race, religious beliefs, colour, sex, ancestry or place of origin of that person or class of persons or of any other person or class of persons.*

*6(1) No employer or person acting on behalf of an employer shall*

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

*(b) discriminate against any person with regard to employment or any term or condition of employment,*

*because of the race, religious beliefs, colour, sex, marital status, age, ancestry or place of origin of that person or of any other person.*

*7(1) No person shall use or circulate any form of application for employment or publish any advertisement in connection with employment or prospective employment or make any written or oral inquiry of an applicant,*

*(a) that expresses either directly or indirectly any limitation, specification or preference as to the race, religious beliefs, colour, sex, age, ancestry or place of origin of any person, or*

*9 No trade union, employers' organization or occupational association shall*

*(a) exclude any person from membership therein, or*

*(b) expel or suspend any member thereof, or*

*(c) discriminate against any person or member,*

*because of the race, religious beliefs, colour, sex, marital status, age, ancestry or place of origin of that person or member.*

*14(1) It is the function of the Commission*

*(a) to forward the principle that every person is equal in dignity and rights without regard to race, religious beliefs, colour, sex, age, ancestry or place of origin,*

*(c) to research, develop and conduct educational programs designed to eliminate discriminatory practices related to race, religious beliefs, colour, sex, age, ancestry or place of origin, and*

### **3 Application of Uniform Building Standards Act.**

*4 Section 5 is amended*

*(a) in subsection (1)(a) and (b) by adding “in the same establishment” after “similar work” wherever it occurs;*

*(b) by adding the following after subsection (1):*

(1.1) In subsection (1), “establishment” means a place of business where an undertaking or part of an undertaking is carried on.

*5 Section 7(1)(b) is amended by adding “sex, physical characteristics,” after “colour,”.*

*6 Section 11(2) is repealed.*

*7 The following is added after section 11:*

**11.1(1)** The Lieutenant Governor in Council may make regulations

(a) exempting a person, class of persons or group of persons from the operation of this Act or any of the provisions of it,

(b) authorizing the undertaking by a person, class of persons or group of persons of programs that, in the absence of the authorization, would contravene this Act, and

(c) respecting the procedure to be followed by the

**4** Section 5 presently reads in part:

*5(1) No employer shall*

*(a) employ a female employee for any work at a rate of pay that is less than the rate of pay at which a male employee is employed by that employer for similar or substantially similar work, or*

*(b) employ a male employee for any work at a rate of pay that is less than the rate of pay at which a female employee is employed by that employer for similar or substantially similar work.*

**5** Section 7(1)(b) presently reads:

*7(1) No person shall use or circulate any form of application for employment or publish any advertisement in connection with employment or prospective employment or make any written or oral inquiry of an applicant,*

*(b) that requires an applicant to furnish any information concerning race, religious beliefs, colour, ancestry or place of origin.*

**6** Section 11(2) presently reads:

*(2) The Lieutenant Governor in Council may by regulations require that contracts designated or classified in the regulations and entered into by*

*(a) the Crown in right of Alberta or a member of the Executive Council of Alberta acting for and on behalf of the Crown;*

*(b) a municipal corporation in Alberta;*

*(c) the board of trustees of a school district or school division in Alberta;*

*(d) the board of a hospital as defined in The Alberta Hospitals Act;*

*shall contain such provisions as may be specified in the regulations, in such form and terms as the regulations may provide, for the purpose of securing the observance, as far as possible, of the provisions of sections 2 to 10.*

**7** Lieutenant Governor in Council may make regulations.

Commission in carrying out its functions under this Act.

(2) The Lieutenant Governor in Council may by regulation delegate to the Commission any of his powers under subsection (1).

(3) A regulation made under subsection (1)(a) or (b) may

(a) be specific or general in its application, and

(b) provide that the exemption or authorization that it grants is subject to any terms and conditions that the Lieutenant Governor in Council or the Commission, as the case may be, considers advisable.

8 *Section 12(3) is amended by adding “and expenses” after “remuneration”.*

9 *Section 14(2) and (3) is repealed and the following is substituted:*

(2) The Commission may delegate in writing to one or more of its members or employees any of its functions or duties, except the power to make regulations delegated to it under section 11.1(2).

10 *The following is added after the heading “Enforcement” and before section 17:*

**16.1** Any person, except the Commission and a member or employee of the Commission, who has reasonable grounds for believing that a person has contravened this Act may make a complaint with the Commission in the form prescribed by the regulations.

11 *Section 17 is amended*

(a) *by repealing subsection (1) and substituting the following:*

**17(1)** The Commission shall, as soon as is reasonably possible after a complaint is made under section 16.1, cause an investigation to be made into, and shall endeavor to effect a settlement of, the complaint.

(b) *by repealing subsection (3) and substituting the following:*



**8** Section 12(3) presently reads:

*(3) The chairman and other members of the Commission shall receive such remuneration for their services as may be prescribed by the Lieutenant Governor in Council.*

**9** Section 14 presently reads in part:

*(2) The Commission may delegate to one or more of its members any of the functions or duties of the Commission.*

*(3) The Lieutenant Governor in Council may make regulations adding to or extending the functions of the Commission and respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.*

**10** Who may make complaint.

**11** Section 17 presently reads in part:

*17(1) The Commission shall as soon as is reasonably possible cause an investigation to be made into and shall endeavor to effect a settlement of any complaint of an alleged contravention of this Act where*

*(a) a person who believes he has been discriminated against contrary to this Act makes a complaint in writing to the Commission, or*

*(b) the Commission has reasonable grounds for believing that a complaint exists.*

(3) A complaint made pursuant to section 16.1 must be made within 6 months after the alleged contravention of the Act occurs.

*12 The following is added after section 17:*

**17.1** A person investigating a complaint under section 17 may do any or all of the following:

- (a) enter on the lands or premises of a person, other than a room or place actually used as a dwelling, at any reasonable time and examine them;
- (b) demand the production for examination of employment applications, payrolls, records, documents, writings and papers that are or may be relevant to the investigation of the complaint;
- (c) on giving a receipt for them, remove any of the things referred to in clause (b) for the purpose of making copies or extracts of them.

**17.2(1)** A person investigating a complaint under section 17 may enter and examine a room or place actually used as a dwelling only if

- (a) the owner or person in possession of it gives his consent to the entry and examination, or
- (b) the entry and examination is authorized by an order of a judge of the Court of Queen's Bench under subsection (3).

(2) If the person investigating a complaint under section 17

- (a) cannot obtain consent to enter and examine a room or place actually used as a dwelling or, having received consent, is obstructed or interfered with, or
- (b) is refused entry to lands or premises other than a room or place actually used as a dwelling

he may apply to a judge of the Court of Queen's Bench by notice of motion for an order under subsection (3).

(3) If, on application under subsection (2) the judge is satisfied that there are reasonable and probable grounds for believing that access to the room or place actually used as a dwelling or to the lands or premises is necessary for the purposes of the investigation he may make an order

- (a) authorizing the entry and examination, or

*(3) Any complaint filed pursuant to this section by an aggrieved person must be filed within six months after the alleged contravention of this Act.*

## **12 Powers of the Commission.**

(b) prohibiting any person from obstructing or interfering with the entry and examination

or both.

**17.3** If a person on whom a demand under section 17.1(b) to produce anything is made refuses or fails

(a) to comply with the demand, or

(b) to permit removal of the thing under section 17.1(c),

the person investigating the complaint may apply to a judge of the Court of Queen's Bench by notice of motion and the judge may make any order he considers necessary to enforce compliance with section 17.1(b) or (c).

**17.4** A copy of the notice of motion under section 17.2 or 17.3, and each affidavit in support, shall be served not less than 3 days before the date named in the notice for hearing the application.

**17.5** If the person investigating the complaint under section 17 removes anything referred to in section 17.1(b), he may make copies or extracts of the things that were removed as soon as possible and shall return the things that were removed to the premises from which they were removed within 48 hours after removing them.

**17.6** No person shall hinder, obstruct, molest or interfere with the Commission, or a person acting on behalf of the Commission, in the performance of a function or duty under this Act or withhold from it or him any employment applications, payrolls, records, documents, writings or papers that are or may be relevant to the investigation of a complaint.

*13 Section 18 is amended*

*(a) by repealing subsections (1) and (2) and substituting the following:*

**18(1)** If the Commission is unable to effect a settlement of the matter complained of, it shall report to the Minister and may, in its discretion, direct that a formal inquiry into the matter be held by a board of inquiry.

(1.1) If the Commission does not make a direction

**13** Section 18 presently reads:

*18(1) If the Commission is unable to effect a settlement of the matter complained of, the Minister shall, on the request of the Commission, appoint a board of inquiry composed of one or more persons to investigate the matter.*

*(2) The Minister shall forthwith communicate the names of the members of the board of inquiry to the parties to the complaint.*

*(3) The Lieutenant Governor in Council may determine the rate of remuneration of the chairman and members of boards of inquiry.*

under subsection (1), the Minister may, in his discretion, direct that the inquiry be held.

(2) A board of inquiry under subsection (1) or (1.1) shall consist of one or more persons appointed by the Minister and he shall communicate the names of the members of the board to the persons referred to in section 20(1).

(b) in subsection (3) by adding “and expenses” after “remuneration”.

14 Sections 20, 21, 22 and 23 are repealed and the following is substituted:

**20(1)** Notwithstanding section 2(b) of *The Administrative Procedures Act*, the following persons are parties to a proceeding before a board of inquiry:

- (a) the Commission, which shall have carriage of the complaint;
- (b) the person named in the complaint as the complainant;
- (c) any person named in the complaint who is alleged to have been dealt with contrary to this Act;
- (d) any person named in the complaint who is alleged to have contravened this Act;
- (e) any other person specified by the board, on any notice that the board determines, and after that person has been given an opportunity to be heard against his joinder as a party.

(2) *The Administrative Procedures Act* applies to the proceedings of a board of inquiry.

**21** A board of inquiry may, at any stage of the proceedings before it, state in the form of a special case for the opinion of the Court of Queen’s Bench any question of law arising in the course of the proceedings, and may adjourn the proceedings for the purpose.

**22** A board of inquiry

- (a) shall, if it finds that a complaint is not justified, order that the complaint be dismissed, and
- (b) may, if it finds that a complaint is justified in

**14** Sections 20 to 23 presently read:

*20(1) A board of inquiry shall give the parties to the complaint full opportunity to be represented by counsel, to present evidence and to make submissions.*

*(2) The board of inquiry may receive and accept whatever evidence and information on oath, affidavit, or otherwise it, in its discretion, deems fit and proper, whether admissible as evidence in a court of law or not.*

*(3) The Administrative Procedures Act applies to the proceedings of a board of inquiry.*

*21(1) A board of inquiry shall submit a report of its inquiry to the Commission within 14 days, exclusive of Saturdays and holidays, after its appointment or within such longer period as the Minister may approve.*

*(2) In its report a board of inquiry shall state whether it found the complaint to be justified or not.*

*(3) After a board of inquiry has made its report, the Commission may direct it to clarify or amplify any of its findings or recommendations and the report shall be deemed not to have been received by the Commission until they have been so clarified or amplified.*

*(4) Upon receipt of the report of a board of inquiry, the Commission shall furnish a copy thereof to each of the persons affected and, if it considers it advisable, shall publish the report in such manner as it considers fit.*

*22(1) Where a board of inquiry finds a complaint to be justified, in whole or in part, it shall in the report recommend the course of action it thinks ought to be taken with respect to the complaint.*

*(2) If the Commission cannot effect a settlement on the course of action to be taken with the person against whom the finding was made within 30 days of the date he was furnished with a copy of the report of the board of inquiry, the Commission shall forthwith deliver all of its files and other records pertaining to the complaint to the Attorney General.*

*(3) The Attorney General may, within 30 days after receiving the Commission's files and other records pursuant to subsection (2), apply to the Court of Queen's Bench for an order under subsection (5) by way of originating notice of motion filed in the office of the clerk of the court of the judicial district in which the inquiry of the board of inquiry was held.*

*(4) The judge hearing the motion shall hold an inquiry de novo and may confirm, reverse or vary the findings and recommendations of the board of inquiry and may make an order under subsection (5).*

whole or in part, order the person against whom the finding was made to do any or all of the following:

- (i) to cease the contravention complained of;
- (ii) to refrain in future from committing the same or any similar contravention;
- (iii) to make available to the person discriminated against the rights, opportunities or privileges he was denied contrary to this Act;
- (iv) to compensate the person discriminated against for all or any part of any wages or income lost or expenses incurred by reason of the discriminatory action;
- (v) to take any other action the board considers proper to place the person discriminated against in the position he would have been in but for the contravention of this Act.

**22.1** A board of inquiry may make any order as to costs that it considers appropriate.

**22.2** An order made by a board of inquiry may be entered with the clerk of the Court of Queen's Bench in the judicial district in which the inquiry was held, and upon being entered it is enforceable in the same manner as an order of the Court of Queen's Bench.

**23(1)** A party to a proceeding before a board of inquiry may appeal the order of the board to the Court of Queen's Bench by originating notice filed with the clerk of the Court of the judicial district in which the inquiry was held.

(2) If the grounds of appeal consist wholly or partly of a question of fact or mixed fact and law, no appeal lies without the leave of a judge of the Court of Queen's Bench.

(3) An application for leave to appeal under subsection (2) shall be made by notice of motion within 30 days of the date the appellant receives a copy of the order of the board of inquiry.

(4) The judge may, after taking into consideration any matters that he considers appropriate, grant leave to appeal under subsection (2).

(5) The originating notice under subsection (1) shall

- (a) be filed with the clerk



*(5) The judge in his discretion may make an order directing the person against whom the finding was made to do any or all of the following:*

- (a) to cease the contravention complained of;*
- (b) to refrain in future from committing the same or any similar contravention;*
- (c) to make available to the person discriminated against the rights, opportunities or privileges he was denied contrary to this Act;*
- (d) to compensate the person discriminated against for all or any part of any wages or income lost or expenses incurred by reason of the discriminatory action;*
- (e) to take such other action as the judge considers proper to place the person discriminated against in the position he would have been but for the contravention of this Act;*
- (f) to pay to the Crown a penalty of*
  - (i) not more than \$200, in the case of an individual, or*
  - (ii) not more than \$1000, in the case of a corporation, trade union, employers' organization, employment agency or occupational association;*

*and the order may be enforced in the same manner as any other order of the Court of Queen's Bench.*

*23(1) Where a board of inquiry finds a complaint not to be justified, the person who submitted the complaint may appeal therefrom to the Court of Queen's Bench in accordance with this section.*

*(2) Where a board of inquiry finds a complaint to be justified, in whole or in part, the person against whom the finding was made may appeal therefrom to the Court of Queen's Bench in accordance with this section.*

*(3) An appeal under this section shall be made by way of an originating notice of motion filed with the clerk of the court of the judicial district in which the inquiry was held.*

*(4) The originating notice of motion*

- (a) shall be filed with the clerk of the court within 30 days of the date the appellant was furnished with a copy of the report of the board of inquiry;*
- (b) shall be returnable on a date not later than 15 days after the date it is filed with the clerk;*
- (c) shall show as a respondent the complainant or the person against whom the finding of the board of inquiry was made, as the case may be;*
- (d) shall show the Commission as a nominal respondent for the purpose only of allowing the Commission to be notified of the motion and subsequent proceedings.*

*(5) The Court of Queen's Bench shall hear and determine the appeal by holding an inquiry de novo and may confirm, reverse or vary the findings and recommendations of the board of inquiry and make any order that may be made under section 22, subsection (5).*

(i) within 30 days of the date leave to appeal was granted, if the appeal is one to which subsection (2) applies, or

(ii) within 30 days of the date the appellant receives a copy of the order of the board of inquiry, if the appeal is not one to which subsection (2) applies,

(b) be returnable not later than 15 days after it is filed with the clerk, and

(c) be served, together with all affidavits in support, on the board of inquiry and the other parties to the proceeding before the board not more than 5 days before the return date.

(6) The Court may confirm, reverse or vary the order of the board and may make any order that the board can make under section 22.

(7) Commencement of an appeal under this section does not operate as a stay of proceedings under the order of the board of inquiry unless the Court orders otherwise.

*15 Section 24(1) is repealed and the following is substituted:*

**24(1)** If the order of a board of inquiry under section 22 or the Court of Queen's Bench under section 23 did not direct a person to cease the contravention complained of, the Attorney General may apply to the Court of Queen's Bench for an order enjoining the person from continuing the contravention.

*16 Section 27 is amended by striking out "and every board of inquiry appointed".*

*17 The following is added after section 27:*

**27.1** Nothing in this Act restricts, limits or derogates from any right or remedy a person has under any other Act or at common law.

*18 The following is added after section 28(i):*

(i.1) "physical characteristics" means 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 epilepsy, paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or

**15** Section 24 presently reads in part:

*24(1) Where an order of the Court of Queen's Bench under section 22 or 23 did not direct a person to cease the contravention complained of, the Attorney General may subsequently apply by way of originating notice of motion to the Court of Queen's Bench for an order enjoining the person from continuing the contravention.*

**16** Section 27 presently reads:

*27 The Ombudsman Act applies to the activities of the Commission and every board of inquiry appointed under this Act.*

**17** Other remedies unaffected.

**18** Definitions.

hearing impediment, muteness or speech impediment, and physical reliance on a guide dog, wheelchair or other remedial appliance or device;

*19 The Individual's Rights Protection Act as it existed immediately before the date on which this Act comes into force applies to all complaints with respect to which a board of inquiry has been appointed before that date.*

*20 This Act comes into force on a date or dates to be fixed by Proclamation.*

**19** Transitional.