

1985 BILL 33

Third Session, 20th Legislature, 34 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 33

**INDIVIDUAL'S RIGHTS PROTECTION
AMENDMENT ACT, 1985**

THE MINISTER OF LABOUR

First Reading
Second Reading
Committee of the Whole
Third Reading
Royal Assent

BILL 33

1985

INDIVIDUAL'S RIGHTS PROTECTION AMENDMENT ACT, 1985

(Assented to _____, 1985)

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 struck out and "physical disability" is substituted:*

the Preamble;
section 2(1);
section 3;
section 4;
section 5;
section 7(1);
section 10;
section 16(1)(a) and (c);
section 38(i).

3 *Section 7 is amended*

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

(1.1) For the purposes of subsection (1), an employer or person acting on behalf of an employer who

(a) refuses to continue to employ any female employee,
or

(b) discriminates against any female employee with regard to any term or condition of employment,

by reason only of pregnancy shall be deemed to have discriminated against that employee because of the sex of that employee.

(1.2) Nothing in this section shall be construed so as to limit or enlarge the rights provided to female employees under Division 7 of Part 3 of the *Employment Standards Act*.

(b) *in subsection (3) by striking out "qualification" and substituting "requirement";*

Explanatory Notes

- 1 This Bill will amend chapter I-2 of the Revised Statutes of Alberta 1980.
- 2 Physical characteristics changed to physical disability.

3 Section 7 presently reads:

7(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, physical characteristics, marital status, age, ancestry or place of origin of that person or of any other person.

(2) Subsection (1) as it relates to age and marital status does not affect the operation of any bona fide retirement or pension plan or the terms or conditions of any bona fide group or employee insurance plan.

(3) Subsection (1) does not apply with respect to a refusal, limitation, specification or preference based on a bona fide occupational qualification.

4 *Section 8 is amended*

(a) *in subsection (1)*

(i) *as to clause (a) by striking out “as to the race, religious beliefs, colour, sex, physical characteristics” and substituting “indicating discrimination on the basis of the race, religious beliefs, colour, sex, physical disability”;*

(ii) *as to clause (b) by striking out “physical characteristics” and substituting “physical disability”;*

(b) *in subsection (2) by striking out “qualification” and substituting “requirement”.*

5 *The following is added after section 11:*

11.1 A contravention of this Act shall be deemed not to have occurred if the person who is alleged to have contravened the Act shows that the alleged contravention was reasonable and justifiable in the circumstances.

6 *Section 13 is amended*

(a) *by repealing subsection (1)(b);*

(b) *in subsection (3) by striking out “or (b)”.*

7 *Section 14 is amended by adding the following after subsection (2):*

(2.1) The Minister may designate one of the members of the Commission as acting chairman of the Commission, and the acting chairman so designated has, during the absence of the chairman, the powers and duties of the chairman.

8 *Section 19 is amended by renumbering it as section 19(1) and by adding the following after subsection (1):*

(2) A complaint made pursuant to subsection (1) must be made within 6 months after the alleged contravention of the Act occurs.

4 Section 8 presently reads:

8(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, physical characteristics, age, ancestry or place of origin of any person, or

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

(2) Subsection (1) does not apply with respect to a refusal, limitation, specification or preference based on a bona fide occupational qualification.

5 Reasonable and justifiable discrimination.

6 Section 13 presently reads in part:

13(1) The Lieutenant Governor in Council may make regulations

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

(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.

7 Section 14 presently reads:

14(1) There shall be a commission to be known as the "Alberta Human Rights Commission" which shall consist of the number of members appointed by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council may designate one of the members as chairman of the Commission.

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

8 Section 19 presently reads:

19 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.

9 *Section 20 is amended*

(a) *by repealing subsection (3);*

(b) *by adding the following after subsection (4):*

(5) In endeavouring to effect a settlement of the complaint, the Commission may make recommendations that would, in the opinion of the Commission, allow the complainant and the person who is alleged to have contravened this Act to settle the complaint.

10 *The following is added after section 31:*

31.1 No settlement effected by the Commission or order made by a board of inquiry may compensate a person for wages or income lost or expenses incurred prior to 2 years before the date of the complaint by that person under section 19.

11 *The Individual's Rights Protection Act as it was 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.*

In accordance with section 4(1) of the Interpretation Act, this Bill comes into force on the date it receives Royal Assent.

9 Section 20 presently reads:

20(1) The Commission shall, as soon as is reasonably possible after a complaint is made under section 19, cause an investigation to be made into, and shall endeavour to effect a settlement of, the complaint.

(2) The Commission shall, before beginning an investigation under subsection (1), give notice of the complaint and of the Commission's intention to investigate it to the person against whom the complaint was made.

(3) A complaint made pursuant to section 19 must be made within 6 months after the alleged contravention of the Act occurs.

(4) If, in the opinion of the Commission, a complaint is without merit, the Commission may dismiss the complaint at any stage of the proceeding.

10 Limitation period for compensation.

11 Transitional.