

Manitoba Laws

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C.C.S.M. c. H175

The Human Rights Code

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(Assented to July 17, 1987)

WHEREAS Manitobans recognize the individual worth and dignity of every member of the human family, and this principle underlies the *Universal Declaration of Human Rights*, the *Canadian Charter of Rights and Freedoms*, and other solemn undertakings, international and domestic, that Canadians honour;

AND WHEREAS Manitobans recognize that

- (a) implicit in the above principle is the right of all individuals to be treated in all matters solely on the basis of their personal merits, and to be accorded equality of opportunity with all other individuals;
- (b) to protect this right it is necessary to restrict unreasonable discrimination against individuals, including discrimination based on stereotypes or generalizations about groups with whom they are or are thought to be associated, and to ensure that reasonable accommodation is made for those with special needs;
- (c) in view of the fact that past discrimination against certain groups has resulted in serious disadvantage to members of those groups, and therefore it is important to provide for affirmative action programs and other special programs designed to overcome this historic disadvantage;
- (d) much discrimination is rooted in ignorance and education is essential to its eradication, and therefore it is important that human rights educational programs assist Manitobans to understand all their fundamental rights and freedoms, as well as their corresponding duties and responsibilities to others; and
- (e) these various protections for the human rights of Manitobans are of such fundamental importance that they merit paramount status over all other laws of the province;

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

Definitions

1 In this Code

"adjudication panel" means the adjudication panel established under section 8; (« tribunal d'arbitrage »)

"adjudicator" means the member of the adjudication panel who has been designated under this Code to adjudicate a complaint; (« arbitre »)

"chief adjudicator" means the person designated as chief adjudicator under subsection 8(1.1); (« arbitre en chef »)

"Commission" means the Manitoba Human Rights Commission; (« Commission »)

"complainant" means a person who files a complaint, but does not include the Commission or the executive director in respect of a complaint filed under subsection 22(3); (« plaignant »)

"complaint" means a complaint filed under section 22 alleging a contravention of this Code; (« plainte »)

"court" means the Court of Queen's Bench; (« tribunal »)

"Crown agency" means

- (a) a board, commission, association, or other body, whether incorporated or unincorporated, all the members of which or of the board of management or board of directors of which are appointed by an Act of the Legislature or by order of the Lieutenant Governor in Council; or
- (b) a corporation the election of the board of directors of which is controlled by the Crown, directly or indirectly, through ownership of the shares of the capital stock thereof by the Crown or by a board, commission, association, or other body that is a Crown agency within the meaning of this definition; (« organisme gouvernemental »)

"discrimination" has the meaning set out in section 9; (« discrimination »)

"employers' organization" means an organization of employers formed for purposes that include the regulation of relations between employers and employees; (« association d'employeurs »)

"executive director" means the executive director of the Commission; (« directeur général »)

"hearing" means a hearing held by an adjudicator for the purpose of adjudicating a complaint; (« audience »)

"local authority" includes

- (a) a municipality;
- (b) a local government district;
- (c) the board of trustees of a school division or school district established under *The Public Schools Act*;
- (d) the board of a planning district established under *The Planning Act*;
- (e) a health and social services board established under *The District Health and Social Services Act*; and
- (f) [repealed] S.M. 2017, c. 34, s. 19;
- (g) a council of a community within the meaning of *The Northern Affairs Act*; (« autorité locale »)

"minister" means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Code; (« ministre »)

"occupational association" means an organization, other than a trade union or employers' organization, in which membership is a prerequisite or from which licensing or certification is necessary to carrying on an occupation or employment; (« association professionnelle »)

"person", in addition to the extended meaning given it by *The Interpretation Act*, includes

- (a) an employment agency, employers' organization, trade union, occupational association, professional association, trade association and any other group or class of persons; and
- (b) for greater certainty, a local authority; (« personne »)

"reply" means a reply filed under section 25 in response to a complaint; (« réponse »)

"respondent" means a person alleged in a complaint to have contravened this Code; (« intimé »)

"service animal" means an animal that has been trained to provide assistance to a person with a disability that relates to that person's disability; (« animal d'assistance »)

"social disadvantage" means diminished social standing or social regard due to

- (a) homelessness or inadequate housing;
- (b) low levels of education;
- (c) chronic low income; or
- (d) chronic unemployment or underemployment; (« désavantage social »)

"trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers. (« syndicat ouvrier »)

S.M. 2006, c. 34, s. 260; S.M. 2012, c. 38, s. 2; S.M. 2017, c. 34, s. 19.

PART I

COMMISSION AND ADJUDICATION PANEL

Human Rights Commission

2(1) The Commission existing at the time this section comes into force under the name of "The Manitoba Human Rights Commission" is hereby continued under the same name as an independent agency with the responsibilities assigned to it under this Code and any other Act of the Legislature.

Membership and appointment

2(2) The Commission shall consist of eight members appointed by the Lieutenant Governor in Council.

Chairperson

2(3) The Lieutenant Governor in Council shall designate one member of the Commission as chairperson, and the chairperson shall hold office for three years from the date of being appointed and thereafter until re-appointed or replaced.

Other members

2(4) Every member of the Commission except the chairperson shall normally hold office for three years from the date of being appointed and thereafter until re-appointed or replaced, but in order to assure that three of the appointments shall expire in each year the Lieutenant Governor in Council shall, if necessary, appoint any such members to terms of less than three years.

Termination for cause

2(5) No appointment of a member of the Commission shall be terminated except for cause.

Vice chairperson

2(6) The Lieutenant Governor in Council shall designate one member of the Commission as vice chairperson.

Vacancies

2(7) Where a member of the Commission except the chairperson ceases to be a member before the normal expiry of his or her term, the Lieutenant Governor in Council may fill the vacancy by appointing a person who shall serve for the unexpired portion of the term and thereafter until appointed to a full term under subsection (4) or replaced.

Transitional

2(8) Notwithstanding anything in this section, those persons who are members of the Commission on the coming into force of this section shall continue to hold office for the duration of their appointments and thereafter until re-appointed or replaced.

S.M. 1997, c. 20, s. 2; S.M. 2018, c. 8, s. 9.

Quorum

3 Notwithstanding subsection 2(2), the Commission has full authority to exercise its responsibilities under this Code when it has fewer than eight members, and for purposes of exercising those responsibilities or otherwise conducting Commission business, a quorum of the Commission consists of a majority of the members holding office at the time.

S.M. 1997, c. 20, s. 3; S.M. 2018, c. 8, s. 9.

Practice and procedure

3.1 The Commission may determine its own practice and procedure.

S.M. 2012, c. 38, s. 3.

Responsibilities of Commission

4 In addition to discharging its other responsibilities under this Code, the Commission shall

- (a) promote the principle that all members of the human family are free and equal in dignity and rights and entitled to be treated on the basis of their personal merits, regardless of their actual or presumed association with any group;

- (b) further the principle of equality of opportunity and equality in the exercise of civil and legal rights regardless of status;
- (c) disseminate knowledge and promote understanding of the civil and legal rights of residents of Manitoba and develop, promote and conduct educational programs for that purpose;
- (d) develop, promote and conduct educational programs designed to eliminate all forms of discrimination prohibited by this Code; and
- (e) promote understanding and acceptance of, and compliance with, this Code and the regulations.

Guidelines

5 The Commission may prepare and distribute, or cause to be prepared and distributed, guidelines to assist in the understanding and application of this Code and the regulations.

Responsible to minister

6(1) Subject to the powers and responsibilities expressly vested in other authorities by this Code, the Commission is responsible to the minister for the administration of this Code.

Annual report

6(2) The Commission shall submit annually to the minister a report of the activities that the Commission and the adjudication panel have undertaken in respect of this Code during the preceding year, and the minister, forthwith after receiving the report, shall lay it before the Legislative Assembly if the Assembly is in session, and if it is not, within 15 days of the commencement of the next ensuing session.

Executive director

7(1) One of the officers and employees of the Commission shall be designated as executive director.

Responsibilities of executive director

7(2) In addition to discharging his or her other responsibilities under this Code, the executive director shall

- (a) act as registrar of complaints received by the Commission and ensure that they are disposed of in accordance with this Code;
- (b) direct the day-to-day activities of the Commission's staff in the investigation and settlement of complaints, the provision of educational programs, and the other responsibilities of the Commission under this Code; and
- (c) generally carry out, in accordance with the Commission's policies and directives, the administration of this Code.

Adjudication panel

8(1) There is hereby established an adjudication panel consisting of at least five persons appointed by the Lieutenant Governor in Council.

Chief adjudicator

8(1.1) The Lieutenant Governor in Council must designate one member of the adjudication panel as the chief adjudicator.

Commission members ineligible

8(2) No member of the Commission shall be appointed to the adjudication panel.

Length of appointment

8(3) A person appointed to the adjudication panel is a member of the panel for the term fixed in the order appointing the member, which may not exceed three years, and continues to be a member until a replacement is appointed or the person is re-appointed.

Appointment continues

8(3.1) Unless terminated for cause under subsection (4), a member of the adjudication panel who has commenced a hearing into a complaint may continue as adjudicator and issue a final decision on the complaint even if his or her appointment has expired and a replacement has been named.

Termination for cause

8(4) No appointment of a member of the adjudication panel shall be terminated except for cause.

Oath of impartiality

8(5) Upon being appointed to the adjudication panel, a member shall make an oath or affirmation in the following form:

"I do solemnly swear (or affirm) that I will faithfully, truly, impartially and to the best of my knowledge, skill and ability, adjudicate complaints under *The Human Rights Code* of Manitoba. So help me God." (Omit last four words where the member affirms.)

S.M. 2012, c. 38, s. 4; S.M. 2015, c. 43, s. 54.

PART II**PROHIBITED CONDUCT AND SPECIAL PROGRAMS****"Discrimination" defined**

9(1) In this Code, "**discrimination**" means

- (a) differential treatment of an individual on the basis of the individual's actual or presumed membership in or association with some class or group of persons, rather than on the basis of personal merit; or
- (b) differential treatment of an individual or group on the basis of any characteristic referred to in subsection (2); or
- (c) differential treatment of an individual or group on the basis of the individual's or group's actual or presumed association with another individual or group whose identity or membership is determined by any characteristic referred to in subsection (2); or
- (d) failure to make reasonable accommodation for the special needs of any individual or group, if those special needs are based upon any characteristic referred to in subsection (2).

Interpretation

9(1.1) In this Code, "discrimination" includes any act or omission that results in discrimination within the meaning of subsection (1), regardless of

- (a) the form of the act or omission; and
- (b) whether the person responsible for the act or omission intended to discriminate.

Applicable characteristics

9(2) The applicable characteristics for the purposes of clauses (1)(b) to (d) are

- (a) ancestry, including colour and perceived race;
- (b) nationality or national origin;
- (c) ethnic background or origin;
- (d) religion or creed, or religious belief, religious association or religious activity;
- (e) age;
- (f) sex, including sex-determined characteristics or circumstances, such as pregnancy, the possibility of pregnancy, or circumstances related to pregnancy;
- (g) gender identity;
- (h) sexual orientation;
- (i) marital or family status;
- (j) source of income;
- (k) political belief, political association or political activity;
- (l) physical or mental disability or related characteristics or circumstances, including reliance on a service animal, a wheelchair, or any other remedial appliance or device;

(m) social disadvantage.

Discrimination on basis of social disadvantage

9(2.1) It is not discrimination on the basis of social disadvantage unless the discrimination is based on a negative bias or stereotype related to that social disadvantage.

Systemic discrimination

9(3) Interrelated actions, policies or procedures of a person that do not have a discriminatory effect when considered individually can constitute discrimination under this Code if the combined operation of those actions, policies or procedures results in discrimination within the meaning of subsection (1).

Criminal conduct excluded

9(4) For the purpose of dealing with any case of alleged discrimination under this Code, no characteristic referred to in subsection (2) shall be interpreted to extend to any conduct prohibited by the *Criminal Code* of Canada.

No condoning or condemning of beliefs, etc.

9(5) Nothing in this Code shall be interpreted as condoning or condemning any beliefs, values, or lifestyles based upon any characteristic referred to in subsection (2).

S.M. 2012, c. 38, s. 5.

Acts of officers and employees

10 For the purposes of this Code, where an officer, employee, director or agent of a person contravenes this Code while acting in the course of employment or the scope of actual or apparent authority, the person is also responsible for the contravention unless the person

- (a) did not consent to the contravention and took all reasonable steps to prevent it; and
- (b) subsequently took all reasonable steps to mitigate or avoid the effect of the contravention.

S.M. 2012, c. 38, s. 6.

Affirmative action, etc. permitted

11 Notwithstanding any other provision of this Code, it is not discrimination, a contravention of this Code, or an offence under this Code

- (a) to make reasonable accommodation for the special needs of an individual or group, if those special needs are based upon any characteristic referred to in subsection 9(2); or
- (b) to plan, advertise, adopt or implement an affirmative action program or other special program that
 - (i) has as its object the amelioration of conditions of disadvantaged individuals or groups, including those who are disadvantaged because of any characteristic referred to in subsection 9(2), and
 - (ii) achieves or is reasonably likely to achieve that object.

Reasonable accommodation required

12 For the purpose of interpreting and applying sections 13 to 18, the right to discriminate where bona fide and reasonable cause exists for the discrimination, or where the discrimination is based upon bona fide and reasonable requirements or qualifications, does not extend to the failure to make reasonable accommodation within the meaning of clause 9(1)(d).

Discrimination in service, accommodation, etc.

13(1) No person shall discriminate with respect to any service, accommodation, facility, good, right, licence, benefit, program or privilege available or accessible to the public or to a section of the public, unless bona fide and reasonable cause exists for the discrimination.

Exception for age of majority

13(2)

Nothing in subsection (1) prevents the denial or refusal of a service, accommodation, facility, good, right, licence, benefit, program or privilege to a person who has not attained the age of majority if the denial or refusal is required or authorized by a statute in force in Manitoba.

Discrimination in employment

14(1) No person shall discriminate with respect to any aspect of an employment or occupation, unless the discrimination is based upon bona fide and reasonable requirements or qualifications for the employment or occupation.

"Any aspect", etc. defined

14(2) In subsection (1), "**any aspect of an employment or occupation**" includes

- (a) the opportunity to participate, or continue to participate, in the employment or occupation;
- (b) the customs, practices and conditions of the employment or occupation;
- (c) training, advancement or promotion;
- (d) seniority;
- (e) any form of remuneration or other compensation received directly or indirectly in respect of the employment or occupation, including salary, commissions, vacation pay, termination wages, bonuses, reasonable value for board, rent, housing and lodging, payments in kind, and employer contributions to pension funds or plans, long-term disability plans and health insurance plans; and
- (f) any other benefit, term or condition of the employment or occupation.

Employment advertising

14(3) No person shall publish, broadcast, circulate or display, or cause to be published, broadcast, circulated or displayed, any statement, symbol or other representation, written or oral, that indicates directly or indirectly that any characteristic referred to in subsection 9(2) is or may be a limitation, specification or preference for an employment or occupation, unless the limitation, specification or preference is based upon bona fide and reasonable requirements or qualifications for the employment or occupation.

Pre-employment inquiries

14(4) No person shall use or circulate any application form for an employment or occupation, or direct any written or oral inquiry to an applicant for an employment or occupation, that

- (a) expresses directly or indirectly a limitation, specification or preference as to any characteristic referred to in subsection 9(2); or
- (b) requires the applicant to furnish information concerning any characteristic referred to in subsection 9(2);

unless the limitation, specification or preference or the requirement to furnish the information is based upon bona fide and reasonable requirements or qualifications for the employment or occupation.

Discrimination by employment agencies, etc.

14(5) No person who undertakes, with or without compensation, to

- (a) obtain any other person for an employment or occupation with a third person; or
- (b) obtain an employment or occupation for any other person; or
- (c) test, train or evaluate any other person for an employment or occupation; or
- (d) refer or recommend any other person for an employment or occupation; or
- (e) refer or recommend any other person for testing, training or evaluation for an employment or occupation;

shall discriminate when doing so, unless the discrimination is based upon bona fide and reasonable requirements or qualifications for the employment or occupation.

Discrimination by organizations, etc.

14(6) No trade union, employer, employers' organization, occupational association, professional association or trade association, and no member of any such union, organization or association, shall

(a) discriminate in respect of the right to membership or any other aspect of membership in the union, organization or association;
or

(b) negotiate on behalf of any other person in respect of, or agree on behalf of any other person to, an agreement that discriminates;
unless bona fide and reasonable cause exists for the discrimination.

Employee benefits

14(7) Subject to subsection 21(7.1) of *The Pension Benefits Act*, the Lieutenant Governor in Council may make regulations prescribing distinctions, conditions, requirements or qualifications that, for the purposes of this section, shall be deemed to be bona fide and reasonable in respect of an employee benefit plan, whether provided for by individual contract, collective agreement or otherwise.

Personal services in private residence

14(8) For the purposes of this section, it is a bona fide and reasonable requirement or qualification where, in choosing a person to provide personal services in a private residence, the employer discriminates for the bona fide purpose of fostering or maintaining a desired environment within the residence, if there is otherwise no contravention of this Code in the employment relationship.

"Personal services" defined

14(9) In subsection (8), "**personal services**" means work of a domestic, custodial, companionship, personal care, child care, or educational nature, or other work within the residence that involves frequent contact or communication with persons who live in the residence.

Exception for age of majority

14(10) Nothing in this section prevents a person from limiting the employment or occupation of a person under the age of majority, or from classifying or referring to a person under the age of majority for an employment or occupation, in accordance with a statute in force in Manitoba that regulates the employment or occupation of persons under the age of majority.

Promotion of beliefs, etc.

14(11) Nothing in this section prohibits the lawful and reasonable disciplining of an employee or person in an occupation who violates the duties, powers or privileges of the employment or occupation by improperly using the employment or occupation as a forum for promoting beliefs or values based upon any characteristic referred to in subsection 9(2).

No reduction of wages, etc.

14(12) An employer shall not, in order to comply with this section,

- (a) terminate the employment or occupation of any person; or
- (b) reduce the wage level or diminish any other benefit available to any person in an employment or occupation; or
- (c) change the customs, practices and conditions of an employment or occupation to the detriment of any person;

if the person accepted the employment or occupation, the wage level or other benefit, or the customs, practices and conditions in good faith.

"Employment or occupation" defined

14(13) In this section, "**employment or occupation**" includes

- (a) work that is actual or potential, full-time or part-time, permanent, seasonal or casual, and paid or unpaid; and
- (b) work performed for another person under a contract either with the worker or with another person respecting the worker's services.

S.M. 2005, c. 2, s. 36.

Discrimination in contracts

15(1) No person shall discriminate with respect to

- (a) entering into any contract that is offered or held out to the public generally or to a section of the public; or

(b) any term or condition of such a contract;

unless bona fide and reasonable cause exists for the discrimination.

Life insurance, etc., contracts

15(2) The Lieutenant Governor in Council may make regulations prescribing distinctions, conditions, requirements or qualifications that, for the purposes of this section, shall be deemed to be bona fide and reasonable in respect of life insurance, accident and sickness insurance or life annuities, whether provided for by individual contract, collective agreement, or otherwise.

Discrimination in rental of premises

16(1) No person shall discriminate with respect to

(a) the leasing or other lawful occupancy of, or the opportunity to lease or otherwise lawfully occupy, any residence or commercial premises or any part thereof; or

(b) any term or condition of the leasing or other lawful occupancy of any residence or commercial premises or any part thereof;

unless bona fide and reasonable cause exists for the discrimination.

Exception for private residence, etc.

16(2) Subsection (1) does not apply to

(a) the choice of a boarder or roomer for a private residence by the occupier of the residence; or

(b) the choice of a tenant for a unit in a duplex by the owner of the duplex, if the owner occupies the other unit in the duplex.

Discrimination in purchase of real property

17 No person shall discriminate with respect to

(a) the purchase or other lawful acquisition of, or the opportunity to purchase or otherwise lawfully acquire, any residence, commercial premises, or other real property or interest therein that has been advertised or otherwise publicly represented as being available for purchase or acquisition; or

(b) any term or condition of the purchase or other lawful acquisition of any such property or interest;

unless bona fide and reasonable cause exists for the discrimination.

Discriminatory signs and statements

18 No person shall publish, broadcast, circulate or publicly display, or cause to be published, broadcast, circulated or publicly displayed, any sign, symbol, notice or statement that

(a) discriminates or indicates intention to discriminate in respect of an activity or undertaking to which this Code applies; or

(b) incites, advocates or counsels discrimination in respect of an activity or undertaking to which this Code applies;

unless bona fide and reasonable cause exists for the discrimination.

Harassment

19(1) No person who is responsible for an activity or undertaking to which this Code applies shall

(a) harass any person who is participating in the activity or undertaking; or

(b) knowingly permit, or fail to take reasonable steps to terminate, harassment of one person who is participating in the activity or undertaking by another person who is participating in the activity or undertaking.

"Harassment" defined

19(2) In this section, "**harassment**" means

(a) a course of abusive and unwelcome conduct or comment undertaken or made on the basis of any characteristic referred to in subsection 9(2); or

(b) a series of objectionable and unwelcome sexual solicitations or advances; or

- (c) a sexual solicitation or advance made by a person who is in a position to confer any benefit on, or deny any benefit to, the recipient of the solicitation or advance, if the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or
- (d) a reprisal or threat of reprisal for rejecting a sexual solicitation or advance.

Reprisals

20 No person shall deny or threaten to deny any benefit, or cause or threaten to cause any detriment, to any other person on the ground that the other person

- (a) has filed or may file a complaint under this Code; or
- (b) has laid or may lay an information under this Code; or
- (c) has made or may make a disclosure concerning a possible contravention of this Code; or
- (d) has testified or may testify in a proceeding under this Code; or
- (e) has participated or may participate in any other way in a proceeding under this Code; or
- (f) has complied with, or may comply with, an obligation imposed by this Code; or
- (g) has refused or may refuse to contravene this Code.

PART III

COMPLIANCE PROCEDURES

21 [Repealed]

S.M. 2012, c. 38, s. 7.

Complaints

22(1) Any person may file, at an office of the Commission, a complaint alleging that another person has contravened this Code.

Consent of alleged victim

22(2) Where the complainant is not the person against whom the Code is alleged to have been contravened, the executive director may refuse to accept the complaint unless that person consents to the filing of the complaint.

Complaint by Commission or executive director

22(3) Where the Commission or the executive director believes on reasonable grounds that any person has contravened this Code, the Commission or the executive director may file a complaint against the person, and the provisions of this Code apply with such modifications as the circumstances require to the complaint.

Complaint form

22(4) Every complaint shall be filed on a form approved by the Commission.

S.M. 2012, c. 38, s. 8.

Time limit for filing

23(1) Subject to subsection (2), every complaint shall be filed within one year of the alleged contravention of the Code or, where a continuing contravention is alleged, within one year of the last alleged instance of the contravention.

Extension for filing

23(2) The executive director may extend the time for filing any complaint except a complaint filed under subsection 22(3), but the executive director shall not extend the time if he or she is satisfied that the extension would cause undue prejudice to the respondent.

Time limit for serving

23(3) Within 30 days of the filing of a complaint, the executive director shall cause the respondent to be served with a copy of the complaint, but failure to meet the 30 day time limit does not invalidate the complaint.

S.M. 2012, c. 38, s. 9.

Amendment of complaint

24 The executive director or an officer or employee of the Commission designated by the executive director may, on such terms and conditions as he or she considers appropriate, add parties to the complaint or otherwise amend the complaint at any time after it has been filed and before the Commission has disposed of it in accordance with section 29, but the executive director or the officer or employee shall not do so if satisfied that undue prejudice would result to any party or any person proposed to be added as a party to the complaint.

Commission may explore settlement of complaint

24.1(1) The Commission may attempt to resolve a complaint through mediation, conciliation or other means at any time.

Termination of proceedings on settlement

24.1(2) If a complaint is settled on terms satisfactory to the complainant and respondent, the Commission must terminate its proceedings in respect of the complaint in accordance with the settlement.

Non-compliance with settlement

24.1(3) Despite subsection (2), if the Commission determines that either party to the settlement has failed to substantially comply with the settlement terms, it may, after giving written notice to the parties, re-open the proceedings and proceed as if no settlement had been reached.

Failure to accept reasonable settlement offer

24.1(4) If a complainant rejects a settlement offer made by the respondent before an adjudicator is appointed to hear the complaint, the Commission must terminate its proceedings in respect of the complaint if the Commission considers the offer to be reasonable.

S.M. 2012, c. 38, s. 10.

Resolution before complaint filed

24.2 If a person contacts the Commission with a concern about the conduct of another person that could constitute a contravention of the Code, the Commission may try to assist them in reaching a mutually acceptable resolution of the concern before a complaint about the conduct is filed.

S.M. 2012, c. 38, s. 10.

Reply to complaint

25 The respondent may file, at an office of the Commission, a written reply to the complaint.

Investigation of complaint

26 As soon as is reasonably possible after a complaint has been filed, the executive director shall cause the complaint to be investigated to the extent the Commission regards as sufficient for fairly and properly disposing of it in accordance with section 24.1 or 29.

S.M. 2012, c. 38, s. 11.

Access to premises and documents

27(1) Where the executive director or an investigator acting on the written authorization of the executive director has reasonable and probable grounds to believe that access to any land, residence or commercial premises will assist in the investigation of a complaint, the executive director or investigator

- (a) shall have access at any reasonable time to the land, residence or commercial premises; and
- (b) may inspect any document, correspondence or record that is situated on or in the land, residence, or commercial premises and is specifically relevant to the complaint, and may make copies thereof or take extracts therefrom.

Authority for access

27(2) Where a person refuses to grant access to land, a residence or commercial premises or refuses to produce a document, correspondence or record for the purposes of subsection (1), the executive director or investigator may, without giving notice to the person, apply to a justice for an order authorizing the executive director or investigator to do any or all of the things authorized under subsection (1).

Where order may be issued

27(3) Upon hearing the application referred to in subsection (2), the justice may grant the order on such terms and conditions as the justice considers appropriate, if satisfied that

- (a) there are reasonable and probable grounds to believe that access to the land, residence or commercial premises will assist in the investigation of the complaint; and
- (b) the authority for access is reasonable and necessary for purposes of investigating the complaint.

Assistance of peace officers

27(4) The person to whom an order is issued under subsection (3) may engage the assistance of one or more peace officers in exercising the powers granted by the order.

Copies as evidence

27(5) Copies of all or part of a document, correspondence or record obtained under this section are admissible in evidence to the same extent, and have the same evidentiary value, as the original document, correspondence, record or part thereof, if certified as true copies by the person who made them.

Allegedly privileged material

27(6) Where a document, correspondence or record to which access is sought under this section is alleged to be protected from disclosure by a privilege recognized by law, the person who claims the privilege, or the executive director or the investigator seeking access to the document, correspondence or record, may apply to the court for a determination on the question of privilege.

Sealing of document

27(7) Where an application is being or has been brought under subsection (6), the person having custody of or control over the document, correspondence or record shall cause it to be sealed and delivered to the court.

Representations re investigation

28 Upon completion of the investigation into a complaint and prior to disposition of the complaint in accordance with section 29, the complainant and the respondent have the right to be informed of the findings of the investigation and the right to respond to the investigator in respect of those findings.

Panel may consider complaint

28.1(1) The chairperson may designate any three or more members of the Commission to sit as a panel of the Commission to consider a complaint.

Chairperson on panel

28.1(2) A panel designated under subsection (1) may include the chairperson.

Jurisdiction of panel

28.1(3) When considering a complaint,

- (a) a panel has all the jurisdiction of the Commission and may exercise the Commission's powers and perform its duties; and
- (b) a decision of a majority of the members of a panel is the decision of the Commission.

S.M. 2012, c. 38, s. 12.

Dismissal of complaint

29(1) The Commission shall dismiss a complaint if it is satisfied that

- (a) the complaint is frivolous or vexatious; or

(b) the acts or omissions described in the complaint do not contravene this Code; or

(c) the evidence in support of the complaint is insufficient to substantiate the alleged contravention of this Code.

29(2). [Repealed] S.M. 2012, c. 38, s. 13.

Adjudication or prosecution

29(3). If a complaint is not settled, terminated or dismissed and the Commission is satisfied that additional proceedings in respect of the complaint would further the objectives of this Code or assist the Commission in discharging its responsibilities under this Code, the Commission shall

(a) request the chief adjudicator to designate a member of the adjudication panel to adjudicate the complaint; or

(b) recommend that the minister commence a prosecution for an alleged contravention of the Code.

Complaints may be combined

29(3.1). If the Commission is satisfied that two or more complaints involve substantially similar issues of fact and law, it may do one or both of the following:

(a) deal with the complaints together under this section;

(b) request the chief adjudicator to designate an adjudicator to adjudicate the complaints together in a single hearing.

Termination of proceedings

29(4). If a complaint is not settled or dismissed and the Commission does not proceed under subsection (3) or (3.1), the Commission must terminate its proceedings in respect of the complaint.

S.M. 2012, c. 38, s. 13.

Notification of disposition

30. Upon disposing of a complaint in accordance with subsection 24.1(4) or section 29, the Commission shall notify the complainant and respondent in writing of the disposition.

S.M. 2012, c. 38, s. 14.

31. [Repealed]

S.M. 2012, c. 38, s. 15.

Designation of adjudicator

32(1). As soon as reasonably possible after receiving a request under clause 29(3)(a) or (3.1)(b), the chief adjudicator shall, in accordance with the procedure prescribed under subsection (2), designate a member of the adjudication panel to hold a hearing into the complaint or complaints.

Decision on combined hearing

32(1.1). When a request is made under clause 29(3.1)(b), the chief adjudicator may designate an adjudicator to hold a single hearing into the complaints if the chief adjudicator is satisfied that a single hearing will not result in unnecessary complications or delay or cause undue prejudice to a party.

Designation on rota basis

32(2). The chief adjudicator shall maintain a current list of all the members of the adjudication panel and, in responding to requests from the Commission under clause 29(3)(a) or (3.1)(b), shall designate members in sequence as their names appear on the list, but if a member of the panel is unavailable or by reason of subsection (3) is ineligible to adjudicate a complaint, the chief adjudicator shall designate the next member in sequence on the list.

Prohibition on designation

32(3). The chief adjudicator shall not designate a member of the adjudication panel to adjudicate a complaint if the member has participated in any capacity in the prior investigation or disposition of the complaint.

S.M. 2012, c. 38, s. 16.

Complaint and reply to adjudicator

33 The Commission shall provide to the adjudicator, or cause to be provided, a copy of the complaint and, where applicable, the reply.

Parties to adjudication

34 The parties to an adjudication under this Code are

- (a) the Commission, which shall have carriage of the complaint;
- (b) the complainant;
- (c) any person, other than the complainant, named in the complaint and alleged to have been dealt with in contravention of this Code;
- (d) the respondent; and
- (e) any other person added as a party under section 24 or section 40.

Notice, etc. to parties

35 At least 14 days prior to the hearing, the adjudicator shall deliver to every party, personally or by registered letter sent to the last known address of the party,

- (a) written notice of the date, time and place of the hearing;
- (b) a copy of the complaint and, where applicable, the reply; and
- (c) written notice of the party's right to make a request under subsection 36(2).

Public notice

36(1) The adjudicator shall cause notice of the date, time, place and subject matter of the hearing to be published, at least three days prior to the hearing, in at least one newspaper that circulates in the part of the Province where the hearing will be held, and may send the same notice to such other news media as the adjudicator considers appropriate.

Parties to be named

36(2) The notice referred to in subsection (1) shall contain the names of the parties unless the adjudicator, at the request of any party, decides that it would be unduly prejudicial in the circumstances to disclose the names of some or all of the parties in the notice.

S.M. 2012, c. 38, s. 17.

General powers of adjudicator

37 For purposes of exercising his or her responsibilities under this Code, an adjudicator has the powers, privileges and immunities of a commissioner appointed under Part V of *The Manitoba Evidence Act*.

Adjudicator to determine reasonableness of offer

37.1(1) When a settlement offer is made after an adjudicator is appointed to hear the complaint, the chief adjudicator must designate a different member of the adjudication panel to determine if the settlement offer is reasonable.

Failure to accept reasonable settlement offer

37.1(2) If a complainant rejects a settlement offer that the adjudicator designated under subsection (1) considers to be reasonable, that adjudicator must terminate the adjudication to the extent that it relates to the parties to the settlement offer.

S.M. 2012, c. 38, s. 18; S.M. 2013, c. 54, s. 43.

Order to produce documents

38(1) Subject to subsection (2), the adjudicator may, either simultaneously with the notice referred to in section 35 or at a subsequent time, order any party to produce to any other party a copy of

- (a) any document that the party intends to rely on at the hearing; and

(b) any other document that, in the opinion of the adjudicator, is or may be relevant to the complaint.

Objection to production

38(2) Where a party objects to producing any document under subsection (1), the adjudicator may inquire into the matter and may

(a) confirm or cancel the order in respect of the document; or

(b) make such special order in respect of the document as the adjudicator considers to be just and appropriate in the circumstances.

Prompt hearing

39(1) The adjudicator shall convene and complete the hearing without undue delay.

General procedures at hearing

39(2) Subject to this Code and the regulations, the adjudicator may determine the procedures to be used at the hearing and may receive at the hearing such evidence or other information as the adjudicator considers relevant and appropriate, whether or not the evidence is given under oath or affirmation and whether or not it would be admissible in a court of law, unless the evidence is subject to any type of legal privilege.

Public hearing

39(3) Every hearing shall be open to the public, but in order to prevent undue prejudice to any party or witness, the adjudicator may prohibit publication or broadcasting of the identity of the party or witness until the adjudicator's final decision has been rendered.

Participation of parties

39(4) The adjudicator shall give every party attending the hearing a full opportunity to present evidence and make submissions, and to be represented by counsel for those purposes.

Recording of proceedings

39(5) The adjudicator shall cause sound recordings to be made of the proceedings at the hearing and shall make copies of the recordings and the documents filed at the hearing available on reasonable conditions for review or reproduction by any party who so requests.

Interpreter

39(6) The adjudicator shall provide appropriate interpretation services for any party or witness who is unable, by reason of deafness or other disability or lack of familiarity with the language used at the hearing, to understand the proceedings or any part thereof.

Witness fees

39(7) Every witness required to attend a hearing is entitled to receive from the party requesting his or her presence witness fees and expenses at the rate of compensation payable to witnesses in the court.

S.M. 2012, c. 38, s. 19.

Amending complaint or reply

40 At any time prior to the completion of the hearing, the adjudicator may, on such terms and conditions as the adjudicator considers appropriate,

(a) permit any party to amend the complaint or reply, either by adding parties thereto or otherwise; or

(b) on his or her own initiative, add other persons as parties;

but the adjudicator shall not exercise his or her authority under this section if satisfied that undue prejudice would result to any party or any person proposed to be added as a party.

Notice re delay

41(1)

Where the adjudicator has not rendered a final decision respecting the complaint within 60 days of the completion of the hearing, he or she shall forthwith, in writing, advise the chief adjudicator of the reasons for the delay and indicate when a final decision will be rendered.

Response to delay

41(2) Where the adjudicator has not rendered a final decision respecting the complaint within 60 days of the completion of the hearing or within a reasonable time after being designated under section 32, the chief adjudicator, whether in receipt of a notice under subsection (1) or not, may

- (a) fix a time within which the adjudicator shall render a final decision respecting the complaint; or
- (b) revoke the designation of the adjudicator and designate a new adjudicator.

Replacement of adjudicator

41(3) Where the chief adjudicator has, under clause (2)(a), fixed a time for the rendering of a final decision respecting the complaint and the adjudicator has failed to render the decision within that time, the chief adjudicator may revoke the designation of the adjudicator and designate a new adjudicator.

Section 32 applies

41(4) Section 32 applies with such modifications as the circumstances require to the designation of a new adjudicator under clause (2)(b) or subsection (3).

New hearing

41(5) Subject to subsection (6), the new adjudicator shall hold a new hearing and shall render a final decision respecting the complaint.

Delivery of recordings, etc.

41(6) Where the appointment of the adjudicator has been revoked under clause (2)(b) or subsection (3) after completion of the hearing, the chief adjudicator may order the adjudicator to deliver the sound recordings of the hearing, the documents presented at the hearing, and a copy of the complaint and reply to the new adjudicator, and the new adjudicator shall render a final decision respecting the complaint on the basis of the materials so delivered together with such submissions as the parties may choose to make or the adjudicator may require.

Jurisdiction retained

41(7) Nothing in this section deprives an adjudicator, prior to his or her designation being revoked under clause (2)(b) or subsection (3), of jurisdiction to convene and complete a hearing, render a final decision respecting the complaint, and make any order authorized by this Code.

Minister may act if delay by chief adjudicator

41(8) When the chief adjudicator is holding a hearing into a complaint and has failed to render a final decision within 60 days of the completion of the hearing, the minister may exercise any power given to the chief adjudicator under this section, including the power to designate a new adjudicator under section 32.

S.M. 2012, c. 38, s. 20.

Jurisdiction re decisions

42 Subject to the other provisions of this Code, every adjudicator has exclusive jurisdiction and authority to determine any question of fact, law, or mixed fact and law that must be decided in completing the adjudication and in rendering a final decision respecting the complaint.

Determination re contravention

43(1) After completion of the hearing, the adjudicator shall decide whether or not, on a balance of probabilities, any party to the adjudication has directly or indirectly contravened this Code in the manner alleged in the complaint.

Discrimination on multiple characteristics

43(1.1) If an adjudicator determines that a party engaged in discrimination on the basis of more than one characteristic referred to in subsection 9(2), the adjudicator must consider the combined effect, if any, of that discrimination when making an order under subsection (2).

Remedial order

43(2) Where, under subsection (1), the adjudicator decides that a party to the adjudication has contravened this Code, the adjudicator may order the party to do one or more of the following:

- (a) do or refrain from doing anything in order to secure compliance with this Code, to rectify any circumstance caused by the contravention, or to make just amends for the contravention;
- (b) compensate any party adversely affected by the contravention for any financial losses sustained, expenses incurred or benefits lost by reason of the contravention, or for such portion of those losses, expenses or benefits as the adjudicator considers just and appropriate;
- (c) pay any party adversely affected by the contravention damages in such amount as the adjudicator considers just and appropriate for injury to dignity, feelings or self-respect;
- (d) pay any party adversely affected by the contravention a penalty or exemplary damages in such amount, subject to subsection (3), as the adjudicator considers just and appropriate as punishment for any malice or recklessness involved in the contravention;
- (e) adopt and implement an affirmative action program or other special program of the type referred to in clause 11(b), if the evidence at the hearing has disclosed that the party engaged in a pattern or practice of contravening this Code.

Maximum exemplary damages

43(3) The amount of a penalty or exemplary damages ordered by an adjudicator under clause (2)(d) shall not exceed the maximum fine to which the contravening party would have been liable under subsection 51(1) as a result of a prosecution for the contravention.

43(4) [Repealed] S.M. 2012, c. 38, s. 21.

Consent order

43(5) An adjudicator may, at any time and with the consent of the parties to the adjudication, make any order that the parties agree to, and thereafter the parties are bound by the order.

S.M. 2012, c. 38, s. 21.

No expulsion of incumbents

44 No decision or order made by an adjudicator under this Code shall

- (a) require the removal of any person from an employment or occupation, if the person accepted the employment or occupation in good faith; or
- (b) require the expulsion of any occupant of housing accommodation, if the occupant obtained possession of the accommodation in good faith.

Costs

45(1) Subject to subsection (2), the parties to an adjudication shall pay their own costs.

Order for costs

45(2) Where the adjudicator regards a complaint or reply as frivolous or vexatious, or is satisfied that the investigation or adjudication has been frivolously or vexatiously prolonged by the conduct of any party, the adjudicator may order the party responsible for the complaint or reply or for the conduct to pay some or all of the costs of any other party affected thereby.

Decisions, etc. in writing

46(1) Every decision or order made by an adjudicator under this Code shall be issued in writing and shall be accompanied by a written statement of the reasons therefor, and the adjudicator shall provide a copy of the decision or order and the statement of reasons to the parties.

Decisions available to public

46(2) Subject to subsection (3), the Commission must make every decision, order and statement of reasons made by an adjudicator available to the public.

Adjudicator may direct deletion of information

46(3) The adjudicator may direct the Commission to delete any information that would disclose the identity of a party or a witness at the hearing from a decision, order or statement of reasons made available to the public under subsection (2) if the adjudicator believes that the disclosure would cause undue prejudice or hardship to the party or witness.

Delivery of material from hearing to Commission

46(4) The adjudicator must send the sound recordings of proceedings at the hearing, and all documents and materials filed at the hearing, to the Commission as soon as

- (a) the deadline for applying for judicial review of the adjudicator's final decision under subsection 50(2) expires, if no application for judicial review is made by that deadline; or
- (b) all proceedings in respect of the judicial review of the adjudicator's final decision have concluded, if an application for judicial review of the final decision is made.

S.M. 2012, c. 38, s. 22

Supervision of special program

47(1) Where an order to adopt and implement an affirmative action program or other special program has been made under clause 43(2)(e), the adjudicator has jurisdiction to supervise or order variation of the program until, in the opinion of the adjudicator, there has been full compliance with the order.

Assistance by Commission

47(2) After a request therefor by the adjudicator or the party against whom an order has been made under clause 43(2)(e), the Commission may assist the adjudicator in supervising or ordering variation of, or the party in adopting and implementing, the affirmative action program or other special program that the adjudicator has ordered, and the Commission may require the party against whom the order has been made to produce for inspection by the Commission such documents, correspondence and records as the Commission reasonably requires in exercising its powers under this subsection.

Enforcement of order

48(1) Any party to an adjudication or the adjudicator may file in the court a certified copy of an order made by the adjudicator under clause 43(2)(b), (c) or (d), and upon being filed the order is, subject to subsection (2), enforceable as a judgment of the court.

Where order under review

48(2) Where an application for review has been filed under section 50 in respect of an order made by an adjudicator under clause 43(2)(b), (c) or (d), the order is not enforceable under subsection (1) until the court has rendered its judgment on the review, but the court may grant interim enforcement of the order on such terms and conditions as the court considers appropriate.

Application for compliance order

48(3) Where a party to an adjudication fails to comply with an order made by the adjudicator under clause 43(2)(a) or (e), any other party may apply to the court for an order requiring the party to comply with the adjudicator's order, and the court may grant the order on such terms and conditions as it considers appropriate.

Finality of adjudication

49 Subject to section 50, every decision and order made by an adjudicator is final and binding on the parties to the adjudication.

Application for judicial review

50(1) Any party to an adjudication may apply to the court for a review of any decision or order made by the adjudicator with respect to the adjudication, solely on the ground that

- (a) the adjudicator committed an error of jurisdiction with respect to the adjudication; or

- (b) there was a breach of the principle of natural justice or the principle of fairness in the course of the adjudication; or
- (c) there is an error of law on the face of the record of the proceedings in respect of which the decision or order under review was made.

Time limit

50(2) An application under subsection (1) shall be made within 30 days of the making of the decision or order in question, or within such further time as the court may allow.

Service of application

50(3) The party applying for judicial review shall, within seven days of the filing of the application, deliver a copy of the application to the other parties to the adjudication and to the adjudicator, either personally or by registered letter sent to the last known address of the recipient.

Delivery of record

50(4) Forthwith upon receiving a copy of the application for review, the adjudicator shall deliver to the court the record of the proceedings in respect of which the decision or order under review was made.

Powers of court

50(5) Upon hearing the application referred to in subsection (1) and reviewing the decision or order, the court may affirm, vary or set aside the decision or order, or may direct the adjudicator to continue the adjudication in accordance with the decision of the court.

Prosecution

51(1) Every person who

- (a) contravenes a provision of this Code; or
- (b) deprives, abridges or restricts, or attempts to deprive, abridge or restrict, any other person in the enjoyment of a right under this Code; or
- (c) hinders, obstructs, molests or interferes with, or attempts to hinder, obstruct, molest or interfere with, the Commission or any of its members, officers or employees, an adjudicator, or any other person acting under the authority of this Code, in the exercise of their respective powers, duties and functions under this Code; or
- (d) fails to comply with a decision or order of an adjudicator, other than an order for the payment of money;

is guilty of an offence and is liable on summary conviction

- (e) in the case of an individual, to a fine of not more than \$5,000; or
- (f) in any other case, to a fine of not more than \$25,000.

Remedial order

51(2) Where a person is convicted of an offence under subsection (1), the convicting justice, in addition to imposing any penalty referred to in subsection (1), may order the person to do one or more of the things referred to in clauses 43(2)(a) to (d) in the same manner as, and with the same discretion available to, an adjudicator making an order under any of those clauses.

Consent to prosecution

51(3) No prosecution for an offence under this Code shall be commenced without the written consent of the minister.

Time limit for prosecution

51(4) A prosecution alleging an offence under this Code may not be commenced later than one year after the day the alleged offence was committed.

Extension for judicial review

51(5) Where an alleged offence is one described in clause (1)(d) and an application for review under section 50 has been filed in respect of the decision or order in question, the one-year time limit referred to in subsection (4) does not begin to run until the court has rendered its decision on the review application and all appeals therefrom have been exhausted or the time for filing any appeal

has expired.

S.M. 2012, c. 38, s. 23.

Onus of proof

52(1) In any proceeding under this Code, the onus of proving that a provision of this Code has been contravened lies on the person alleging the contravention, but the onus of proving

- (a) the existence of a bona fide and reasonable cause for discrimination; or
- (b) that a requirement or qualification for an employment or occupation is bona fide and reasonable; or
- (c) that reasonable accommodation has been made or is not possible in the circumstances; or
- (d) the applicability of any other exception to the prohibitions enacted by this Code;

lies on the respondent.

Onus to prove bias or stereotype re social disadvantage discrimination

52(2) When it is alleged that a person has engaged in discrimination on the basis of social disadvantage, the onus of proving that the discrimination is based on a negative bias or stereotype lies on the person making the allegation.

S.M. 2012, c. 38, s. 24.

Status of unions, etc.

53 For the purposes of this Code, a complaint may be filed and a prosecution for an offence may be brought against an employers' organization, trade union, occupational association, professional association, trade association, or any other organization or association in the name of the organization, union or association.

PART IV SPECIAL REMEDIES

Application for court order

54(1) Where a complaint has been filed, the Commission may apply to the court for an order restraining the respondent from engaging in conduct alleged to be in contravention of this Code, or requiring the respondent to comply with this Code in specified respects or to do or refrain from doing any other act or thing, until the complaint has been disposed of in accordance with this Code or for such other time as the application may specify.

Where order may be issued

54(2) Upon hearing the application referred to in subsection (1), the court may grant the order on such terms and conditions as it considers appropriate, if the court is satisfied that

- (a) the Commission has established a prima facie case that the respondent has contravened this Code; and
- (b) granting the order would further the objectives of this Code.

Injunction

55 The Commission or any person may, by statement of claim, bring action against any person for an injunction to restrain the person from depriving, abridging or restricting or attempting to deprive, abridge or restrict, on the basis of any characteristic referred to in subsection 9(2), any other person in the enjoyment of a right under this Code, and the court may grant the injunction on such terms and conditions as it considers appropriate.

Contract compliance

56(1) Every contract entered into, before or after this section comes into force, by the government, a Crown agency or a local authority is hereby deemed to contain as terms of the contract

- (a) a stipulation that no party to the contract shall contravene this Code in carrying out any term of the contract; and

- (b) such provision for an affirmative action program or other special program related to the implementation of the contract as may be required by regulations made under the authority of this Code.

Discretion to repudiate

56(2) Where a complaint is adjudicated or a prosecution conducted under this Code and the adjudicator or justice decides, or it is necessarily implicit in the decision of the adjudicator or justice, that the deemed term referred to in clause (1)(a) has been breached by any party to the contract except, as the case may be, the government, Crown agency or local authority, the government, Crown agency or local authority may repudiate the contract and thereafter no party is bound by its terms.

PART V

GENERAL

Code binding on Crown

57 This Code is binding on Her Majesty in right of Manitoba.

Paramountcy of Code

58 Unless expressly provided otherwise herein or in another Act of the Legislature, the substantive rights and obligations in this Code are paramount over the substantive rights and obligations in every other Act of the Legislature, whether enacted before or after this Code.

Confidentiality of information

59(1) Where in the course of administering this Code, the Commission or an officer or employee of the Commission obtains information

- (a) pursuant to an order issued under subsection 27(3); or
- (b) subject to an express written condition that the information be treated confidentially;

the Commission, officer or employee, subject to subsection 46(2), shall not disclose the information to any other person except

- (c) to members, officers and employees of the Commission or other persons acting under the authority of this Code, for the purpose of discharging their responsibilities under this Code; or
- (d) to an adjudicator who is adjudicating a complaint to which the information is relevant; or
- (e) to the Queen's Bench or any other court dealing with a matter to which the information is relevant; or
- (f) where disclosure of the information is otherwise required by law.

Other information

59(2) Where in the course of administering this Code, the Commission or an officer or employee of the Commission obtains information otherwise than as referred to in clause (1)(a) or (b), the Commission may, for purposes of discharging its responsibilities under this Code, authorize disclosure of the information to such persons and in such circumstances as the Commission considers appropriate, having due regard for the interests of those who will or might be affected by the disclosure of the information.

Disclosure by adjudicator

59(3) Any information that an adjudicator obtains and regards as relevant to the complaint being adjudicated may be disclosed at the hearing and used in the reasons for decision, but any duties of confidentiality otherwise attaching to such information under this section shall continue to apply except for purposes of the adjudication and matters that are necessarily incidental thereto.

S.M. 2013, c. 54, s. 43

Agreements re investigations, etc.

60 The Commission may, by written agreement entered into with the Ombudsman appointed under *The Ombudsman Act*, or a Crown agency, or another statutory human rights agency in Canada, delegate to the Ombudsman, Crown agency or human rights agency the authority to exercise or perform some or all of the Commission's powers, duties and functions under this Code in investigating, or disposing of in accordance with section 24.1 or 29, complaints

- (a) alleging contraventions of such provisions of this Code as may be specified in the agreement; or
- (b) filed in respect of such areas of the province as may be specified in the agreement; or
- (c) filed against the Commission or any of its members, officers or employees;

and thereupon the Ombudsman, Crown agency or human rights agency has, to the extent provided by the agreement, those powers, duties and functions.

S.M. 2012, c. 38, s. 25.

Technical defects

61 Except as otherwise provided herein, no proceeding under this Code is invalid by reason of any defect in form or any technical irregularity.

Protection from liability

62 No action or proceeding may be brought against the Commission or any of its members, officers or employees, an adjudicator or any other person acting under the authority of this Code for anything done, or omitted to be done, in good faith, in the exercise or intended exercise of a power or duty under this Code.

S.M. 2012, c. 38, s. 26.

Regulations by Lieutenant Governor in Council

63(1) The Lieutenant Governor in Council may make such regulations as the Lieutenant Governor in Council considers necessary for carrying out the objectives of this Code.

63(2) [Repealed] S.M. 2012, c. 38, s. 27.

S.M. 2012, c. 38, s. 27.

Forms

63.1 The Commission may approve forms for use under this Code, including a form for complaints.

S.M. 2012, c. 38, s. 28.

Repeal of Human Rights Act

64(1) *The Human Rights Act*, being chapter H175 of the *Continuing Consolidation of the Statutes of Manitoba*, is repealed.

References in other Acts

64(2) A reference in any other Act of the Legislature to *The Human Rights Act* shall be deemed to be a reference to this Code.

Reference in Continuing Consolidation

65 This Code may be referred to as chapter H175 in the *Continuing Consolidation of the Statutes of Manitoba*.

Commencement

66 This Code comes into force on a day fixed by proclamation.

NOTE: S.M. 1987-88, c. 45 came into force by proclamation on December 10, 1987.

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