

The Saskatchewan Human Rights Code

being

Chapter S-24.1 of the *Statutes of Saskatchewan, 1979* (effective August 7, 1979) as amended by the *Statutes of Saskatchewan, 1980-81, c.41 and 81; 1989-90, c.23; 1993, c.55 and 61; 2000, c.26; 2007, c.39; 2011, c.17; and 2013, c.S-15.1.*

NOTE:

This consolidation is not official and is subject to House amendments and Law Clerk and Parliamentary Counsel changes to Separate Chapters that may be incorporated up until the publication of the annual bound volume. Amendments have been incorporated for convenience of reference and the official Statutes and Regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the official Statutes and Regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER S-24.1

An Act respecting the Saskatchewan Code of Human Rights and its Administration

SHORT TITLE

Short title

1 This Act may be cited as *The Saskatchewan Human Rights Code*.

INTERPRETATION

Interpretation

2(1) In this Act:

- (a) “**age**” means any age of eighteen years or more;
- (b) “**commercial unit**” means any building or other structure or part thereof that is used or occupied, or that is intended, arranged or designed to be used or occupied, for the manufacture, sale, resale, processing, reprocessing, displaying, storing, handling, garaging or distribution of personal property or any space, in any such building, structure or part thereof, that is used or occupied, or that is intended, arranged or designed to be used or occupied, as a separate business, professional unit or office;
- (c) “**commission**” means the Saskatchewan Human Rights Commission;
- (c.1) “**court**” means the Court of Queen’s Bench;
- (d) “**creed**” means religious creed;
- (d.1) “**disability**” means:
 - (i) any degree of physical disability, infirmity, malformation or disfigurement and, without limiting the generality of the foregoing, includes:
 - (A) epilepsy;
 - (B) any degree of paralysis;
 - (C) amputation;
 - (D) lack of physical co-ordination;
 - (E) blindness or visual impediment;
 - (F) deafness or hearing impediment;
 - (G) muteness or speech impediment; or
 - (H) physical reliance on a service animal, wheelchair or other remedial appliance or device; or

(ii) any of:

(A) an intellectual disability or impairment;

(B) a learning disability or a dysfunction in one or more of the processes involved in the comprehension or use of symbols or spoken language; or

(C) a mental disorder;

(e) **“employee”** means a person employed by an employer and includes a person engaged pursuant to a limited term contract;

(f) **“employer”** means a person employing one or more employees and includes a person acting on behalf of an employer;

(g) **“employers’ organization”** means an organization of employers formed for the purpose of regulating relations between employers and employees or for purposes that include the regulation of relations between employers and employees;

(h) **“employment agency”** includes a person who undertakes, with or without compensation, to procure employees for employers and a person who undertakes, with or without compensation, to procure employment for persons;

(h.1) **“family status”** means the status of being in a parent and child relationship and, for the purposes of this clause:

(i) **“child”** means son, daughter, stepson, stepdaughter, adopted child and person to whom another person stands in place of a parent;

(ii) **“parent”** means father, mother, stepfather, stepmother, adoptive parent and person who stands in place of a parent to another person;

(i) **“housing accommodation”** means any place of dwelling and includes any place where other services are provided in addition to accommodation, but does not include a place of dwelling that is part of a building in which the owner or the owner’s family resides and where the occupant of the place of dwelling is required to share a bathroom or kitchen facility with the owner or the owner’s family;

(i.01) **“marital status”** means that state of being engaged to be married, married, single, separated, divorced, widowed or living in a common-law relationship, but discrimination on the basis of a relationship with a particular person is not discrimination on the basis of marital status;

(i.1) **“mental disorder”** means a disorder of thought, perception, feelings or behaviour that impairs a person’s:

(i) judgment;

(ii) capacity to recognize reality;

(iii) ability to associate with others; or

(iv) ability to meet the ordinary demands of life;

- (j) “**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (k) “**occupational association**” means any organization, whether incorporated or otherwise, in which membership is a prerequisite to carrying on any trade, occupation or profession, but does not include a trade union or employers’ organization;
- (l) “**offer**” includes an invitation to treat;
- (m) “**person**”, in addition to the extended meaning contained in *The Interpretation Act*, includes an employment agency, employers’ organization, occupational association or trade union;
- (m.01) “**prohibited ground**” means:
- (i) religion;
 - (ii) creed;
 - (iii) marital status;
 - (iv) family status;
 - (v) sex;
 - (vi) sexual orientation;
 - (vii) disability;
 - (viii) age;
 - (ix) colour;
 - (x) ancestry;
 - (xi) nationality;
 - (xii) place of origin;
 - (xiii) race or perceived race; and
 - (xiv) receipt of public assistance;
- (m.1) “**receipt of public assistance**” means the receipt of:
- (i) assistance as defined in *The Saskatchewan Assistance Act*; or
 - (ii) a benefit as defined in *The Saskatchewan Income Plan Act*;
- (m.2) “**religion**” includes all aspects of religious observance and practice as well as beliefs;
- (n) **Repealed.** 1989-90, c.23, s.3.
- (o) “**sex**” means gender, and, unless otherwise provided in this Act, discrimination on the basis of pregnancy or pregnancy-related illnesses is deemed to be discrimination on the basis of sex;

(p) “**trade union**” means an organization of employees formed for the purpose of regulating relations between employees and employers or for purposes that include the regulation of relations between employees and employers;

(q) “**undue hardship**” means, for the purposes of sections 31.2 and 31.3, intolerable financial cost or disruption to business having regard to the effect on:

- (i) the financial stability and profitability of the business undertaking;
- (ii) the value of existing amenities, structures and premises as compared to the cost of providing proper amenities or physical access;
- (iii) the essence or purpose of the business undertaking; and
- (iv) the employees, customers or clients of the business undertaking, disregarding personal preferences;

but does not include the cost or business inconvenience of providing washroom facilities, living quarters or other facilities for persons with physical disabilities where those facilities must be provided by law for persons of both sexes.

(2) For the purpose of dealing with any case of alleged discrimination pursuant to this Act, no ground of discrimination shall be interpreted as extending to any conduct that is prohibited by the *Criminal Code*.

(3) Nothing in sections 9 to 19 prohibits a distinction on the basis of age if that distinction is permitted or required by any Act or regulation in force in Saskatchewan.

1979, c.S-24.1, s.2; 1989-90, c.23, s.3; 1993, c.61, s.3; 2000, c.26, s.3; 2007, c.39, s.3; 2011, c.17, s.3.

OBJECTS

Objects

3 The objects of this Act are:

- (a) to promote recognition of the inherent dignity and the equal inalienable rights of all members of the human family; and
- (b) to further public policy in Saskatchewan that every person is free and equal in dignity and rights and to discourage and eliminate discrimination.

1979, c.S-24.1, s.3.

PART I BILL OF RIGHTS

Right to freedom of conscience

4 Every person and every class of persons shall enjoy the right to freedom of conscience, opinion and belief and freedom of religious association, teaching, practice and worship.

1979, c.S-24.1, s.4.

Right to free expression

5 Every person and every class of persons shall, under the law, enjoy the right to freedom of expression through all means of communication, including, without limiting the generality of the foregoing, the arts, speech, the press or radio, television or any other broadcasting device.

1979, c.S-24.1, s.5.

Right to free association

6 Every person and every class of persons shall enjoy the right to peaceable assembly with others and to form with others associations of any character under the law.

1979, c.S-24.1, s.6.

Right to freedom from arbitrary imprisonment

7 Every person and every class of persons shall enjoy the right to freedom from arbitrary arrest or detention.

1989-90, c.23, s.4.

Right to elections

8 Every qualified voter resident in Saskatchewan shall enjoy the right to exercise freely his or her franchise in all elections and shall possess the right to require that no Legislative Assembly shall continue for a period in excess of five years.

1979, c.S-24.1, s.8; 2000, c.26, s.4.

PART II PROHIBITION OF CERTAIN DISCRIMINATORY PRACTICES

Right to engage in occupations

9 Every person and every class of persons shall enjoy the right to engage in and carry on any occupation, business or enterprise under the law without discrimination on the basis of a prohibited ground.

2000, c.26, s.5.

Discrimination in the purchase of property prohibited

10(1) No person shall, on the basis of a prohibited ground:

- (a) deny to any person or class of persons the opportunity to purchase any commercial unit or any place of dwelling that is advertised or in any way represented as being available for sale;
- (b) deny to any person or class of persons the opportunity to purchase or otherwise acquire land or an interest in land; or
- (c) discriminate against any person or class of persons with respect to any term of the purchase or other acquisition of any commercial unit or any place of dwelling, land or any interest in land.

(2) **Repealed.** 2007, c.39, s.4.

(3) Nothing in subsection (1) prohibits the sale, the offering for sale or the advertising for sale of a place of dwelling for occupancy by persons over 55 years of age exclusively.

1979, c.S-24.1, s.10; 1989-90, c.23, s.6; 1993, c.61, s.5; 2000, c.26, s.6; 2007, c.39, s.4.

Discrimination in occupancy of commercial unit or housing accommodation is prohibited

11(1) No person, directly or indirectly, alone or with another, or by the interposition of another shall, on the basis of a prohibited ground:

- (a) deny to any person or class of persons occupancy of any commercial unit or any housing accommodation; or
- (b) discriminate against any person or class of persons with respect to any term of occupancy of any commercial unit or any housing accommodation.

(2) Subsection (1) does not apply to discrimination on the basis of the sex of a person with respect to housing accommodation, where the occupancy of all the housing accommodation in a building, except that of the owner or the owner's family, is restricted to individuals who are of the same sex.

(3) Subsection (1) does not apply to discrimination on the basis of the sex or sexual orientation of a person with respect to the renting or leasing of any dwelling unit in any housing accommodation that is composed of not more than two dwelling units, where the owner of the housing accommodation or the owner's family resides in one of the two dwelling units.

(4) Nothing in subsection (1) prohibits the renting or leasing, the offering for rent or lease or the advertising for rent or lease, of any housing accommodation for occupancy by persons over 55 years of age exclusively.

1979, c.S-24.1, s.11; 1989-90, c.23, s.7; 1993, c.61, s.6; 2000, c.26, s.7.

Discrimination prohibited in places to which public admitted

12(1) No person, directly or indirectly, alone or with another, or by the interposition of another shall, on the basis of a prohibited ground:

- (a) deny to any person or class of persons the accommodation, services or facilities to which the public is customarily admitted or that are offered to the public; or
- (b) discriminate against any person or class of persons with respect to the accommodation, services or facilities to which the public is customarily admitted or that are offered to the public.

(2) Subsection (1) does not apply to prevent the barring of any person because of the sex of that person from any accommodation, services or facilities upon the ground of public decency.

(3) **Repealed.** 2007, c.39, s.5.

(4) Subsection (1) does not apply to prevent the giving of preference because of age, marital status or family status with respect to membership dues, fees or other charges for services or facilities.

1979, c.S-24.1, s.12; 1989-90, c.23, s.8; 1993, c.61, s.7; 2000, c.26, s.8; 2007, c.39, s.5.

Right to education

13(1) Every person and every class of persons shall enjoy the right to education in any school, college, university or other institution or place of learning, vocational training or apprenticeship without discrimination on the basis of a prohibited ground other than age.

(2) Nothing in subsection (1) prevents a school, college, university or other institution or place of learning from following a restrictive policy with respect to enrolment on the basis of sex, creed, religion or disability, where it enrolls persons of a particular sex, creed or religion exclusively, or is conducted by a religious order or society, or where it enrolls persons who are disabled.

1979, c.S-24.1, s.13; 1989-90, c.23, s.9; 1993, c.61, s.8; 2000, c.26, s.9.

Prohibitions against publications

14(1) No person shall publish or display, or cause or permit to be published or displayed, on any lands or premises or in a newspaper, through a television or radio broadcasting station or any other broadcasting device, or in any printed matter or publication or by means of any other medium that the person owns, controls, distributes or sells, any representation, including any notice, sign, symbol, emblem, article, statement or other representation:

(a) tending or likely to tend to deprive, abridge or otherwise restrict the enjoyment by any person or class of persons, on the basis of a prohibited ground, of any right to which that person or class of persons is entitled under law; or

(b) that exposes or tends to expose to hatred, ridicules, belittles or otherwise affronts the dignity of any person or class of persons on the basis of a prohibited ground.

(2) Nothing in subsection (1) restricts the right to freedom of expression under the law upon any subject.

1979, c.S-24.1, s.14; 1989-90, c.23, s.10; 1993, c.61, s.9; 2000, c.26, s.10.

Discrimination prohibited in contracts

15(1) No person shall, in making available to any person a contract that is offered to the public:

- (a) discriminate against any person or class of persons on the basis of a prohibited ground; or
- (b) include terms in the contract that discriminate against a person or class of persons on the basis of a prohibited ground.

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

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

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

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

(1.3) **Repealed.** 2000, c.26, s.11.

(2) **Repealed.** 1980-81, c.41, s.3.

1979, c.S-24.1, s.15; 1980-81, c.41, s.3; 1989-90, c.23, s.11; 1993, c.61, s.10; 2000, c.26, s.11.

Discrimination prohibited in employment

16(1) No employer shall refuse to employ or continue to employ or otherwise discriminate against any person or class of persons with respect to employment, or any term of employment, on the basis of a prohibited ground.

(2) No employee shall discriminate against another employee on the basis of a prohibited ground.

(3) No employment agency shall discriminate against any person or class of persons in receiving, classifying, disposing of or otherwise acting on applications for the agency's service or in referring an applicant or applicants to an employer or anyone acting on an employer's behalf on the basis of a prohibited ground.

(3.1) No employer shall use, in the hiring or recruitment of persons for employment, an employment agency that discriminates against any person or class of persons seeking employment on the basis of a prohibited ground.

(4) No provision of this section relating to age prohibits the operation of any term of a *bona fide* retirement, superannuation or pension plan, or any terms or conditions of any *bona fide* group or employee insurance plan, or of any *bona fide* scheme based upon seniority.

(5) Nothing in this section deprives a college established pursuant to an Act of the Legislature, a school, a board of education or the Conseil scolaire fransaskois of the right to employ persons of a particular religion or religious creed where religious instruction forms or may form the whole or part of the instruction or training provided by the college, school, board of education or Conseil scolaire fransaskois pursuant to *The Education Act, 1995*.

(6) **Repealed.** 1989-90, c.23, s.12.

(7) The provisions of this section relating to any discrimination, limitation, specification or preference for a position or employment based on sex, disability or age do not apply where sex, ability or age is a reasonable occupational qualification and requirement for the position or employment.

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

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

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

(10) This section does not prohibit an exclusively non-profit charitable, philanthropic, fraternal, religious, racial or social organization or corporation that is primarily engaged in serving the interests of persons identified by their race, creed, religion, colour, sex, sexual orientation, family status, marital status, disability, age, nationality, ancestry, place of origin or receipt of public assistance from employing only or giving preference in employment to persons similarly identified if the qualification is a reasonable and *bona fide* qualification because of the nature of the employment.

(11) This section does not prohibit an employer from:

- (a) granting employment to, continuing to employ or advancing a person who is the parent, child or spouse of another employee of the employer where a reasonable and bona fide cause exists for the employer's action; or
- (b) refusing to employ, to continue to employ or to advance a person who is the parent, child or spouse of another employee of the employer where a reasonable and bona fide cause exists for the employer's refusal.

1979, c.S-24.1, s.16; 1980-81, c.41, s.4; 1989-90, c.23, s.12; 1993, c.55, s.188; 1993, c.61, s.11; 2000, c.26, s.12; 2013, c.S-15.1, s.10-34.

Rules respecting complaints regarding classes of persons

17 Every person and every class of persons shall enjoy the right to membership, and all the benefits appertaining to membership, in any professional society or other occupational association without discrimination on the basis of a prohibited ground.

2000, c.26, s.13.

Discrimination by trade unions prohibited

18 No trade union shall exclude any person from full membership or expel, suspend or otherwise discriminate against any of its members, or discriminate against any person in regard to employment by any employer, on the basis of a prohibited ground.

2000, c.26, s.14.

Forms, etc., not to express discrimination

19(1) No person shall use or circulate any form of application for employment to which this Act applies or publish any advertisement in connection with that employment or prospective employment or make any written or oral inquiry or statement in connection with that employment that:

- (a) expresses, either directly or indirectly, a limitation, specification or preference indicating discrimination or an intention to discriminate on the basis of a prohibited ground; or
 - (b) contains a question or request for particulars with respect to a prohibited ground.
- (2) Notwithstanding subsection (1), for the purposes of subsection 16(5) or (10), an application or advertisement for employment may specify or contain a request for information respecting a qualification or preference permitted pursuant to subsection 16(5) or (10).

2000, c.26, s.15.

PART III ADMINISTRATION

Interpretation of Part, “member”

20 In this Part, “**member**” means a member of the commission.

1979, c.S-24.1, s.20.

Commission

- 21(1)** The Saskatchewan Human Rights Commission is hereby continued.
- (2) The persons appointed as members pursuant to *The Saskatchewan Human Rights Commission Act* continue as members until such time as new members are appointed pursuant to subsection (3).
- (3) The commission shall consist of not less than three members appointed by the Lieutenant Governor in Council.
- (4) The Lieutenant Governor in Council shall designate one of the members as Chief Commissioner and may designate one other member as Deputy Chief Commissioner.

(5) Subject to subsections (6) and (7), each member shall be appointed for a term of five years and shall hold office until a successor is appointed and may be reappointed for further terms of five years.

(6) Of the members first appointed after this section comes into force:

(a) one-third, as nearly as may be, shall be appointed for a term of three years;

(b) one-third, as nearly as may be, shall be appointed for a term of four years; and

(c) the remaining members shall be appointed for a term of five years;

and thereafter each member shall be appointed for a term of five years.

(7) The Lieutenant Governor in Council may appoint a person to fill any vacancy in the membership of the commission and that person shall be appointed to hold office for the remainder of the term of office of the member being replaced.

(8) The Lieutenant Governor in Council may determine the remuneration for services and allowances for travelling and other expenses that shall be paid to members.

(9) A quorum of the commission is a majority of the members or three members, whichever is the lesser.

(10) A decision of a quorum of the commission is the decision of the commission and, in the event of an equality of votes on any matter, the Chief Commissioner, or, in the absence or inability to act of the Chief Commissioner, the Deputy Chief Commissioner, has a casting vote.

1979, c.S-24.1, s.21; 2000, c.26, s.16.

22 Repealed. 2000, c.26, s.17.

Appointment of staff and consultants and payment of witness fees

23(1) The commission may appoint or employ any officers, clerks or other employees that are required for the proper conduct of its business, and may determine their duties, powers, conditions of employment and remuneration.

(2) The commission may engage the services of any legal counsel, consultants and technical advisors that it considers necessary to assist it in carrying out its responsibilities and may pay any fees and expenses that it considers necessary.

(3) The commission may pay any witness fees and allowances that may be provided for pursuant to *The Queen's Bench Act, 1998*.

1979, c.S-24.1, s.23; 2000, c.26, s.18; 2011, c.17, s.4.

Superannuation

24 *The Public Service Superannuation Act* and *The Superannuation (Supplementary Provisions) Act* apply to any persons appointed or employed by the commission pursuant to subsection 23(1).

2000, c.26, s.19.

Duties of commission**25** The commission shall:

- (a) forward the principle that every person is free and equal in dignity and rights without regard to religion, creed, marital status, family status, sex, sexual orientation, disability, age, colour, ancestry, nationality, place of origin, race or perceived race or receipt of public assistance;
- (b) promote an understanding and acceptance of, and compliance with, this Act;
- (c) develop and conduct educational programs designed to eliminate discriminatory practices;
- (d) disseminate information and promote understanding of the legal rights of residents of the province and conduct educational programs in that respect;
- (e) further the principle of the equality of opportunities for persons, and equality in the exercise of the legal rights of persons, regardless of their status;
- (f) conduct and encourage research by persons and associations actively engaged in the field of promoting human rights;
- (g) forward the principle that cultural diversity is a basic human right and fundamental human value;
- (h) promote and pursue measures to prevent and address systemic patterns of discrimination; and
- (i) promote and pursue alternative dispute resolution methods in resolving complaints.

1979, c.S-24.1, s.25; 1989-90, c.23, s.16; 1993, c.61, s.15; 2000, c.26, s.20; 2011, c.17, s.5.

Financial requirements**25.1** The commission:

- (a) shall prepare and submit annually to the minister, in any form that the minister may require, an estimate of its financial requirements for the following fiscal year; and
- (b) may, to the extent that funds are provided to the commission, dedicate the resources of the commission in the way the commission considers necessary and advisable to carry out the purposes of this Act.

2011, c.17, s.6.

Provision of services**25.2** To carry out the purposes of this Act, the minister may provide services to the commission.

2011, c.17, s.6.

Administration

26 The commission is responsible to the minister for the administration of this Act and any other Acts that are assigned by the Lieutenant Governor in Council to be administered by it.

1979, c.S-24.1, s.26.

Delegation of powers

26.1(1) The Chief Commissioner may, in writing, delegate to a member or any employee of the commission any of his or her powers pursuant to this Act other than the power of delegation pursuant to this section.

(2) A delegation may be made to:

- (a) a specified member or employee or class of employees of the commission;
or
- (b) the holder of a specified office for as long as he or she holds that office.

(3) Every delegation is revocable at will, and no delegation prevents the exercise of any power by the Chief Commissioner.

(4) A delegation may be made subject to any restrictions and conditions that the Chief Commissioner considers appropriate and may be made either generally or in relation to a particular case or matter or class of cases or matters.

(5) Until a delegation is revoked, it continues in force, and if the Chief Commissioner who made the delegation ceases to hold office, the delegation continues to have effect as if it were made by his or her successor.

(6) If the Chief Commissioner has delegated a power pursuant to this section, the person to whom the power is delegated shall, when required to do so, produce evidence of his or her authority to exercise the power.

(7) If the Chief Commissioner is of the opinion that there is a conflict of interest respecting the exercise of his or her powers, the Chief Commissioner may delegate his or her powers pursuant to subsection (1) to an individual who is not a member or an employee of the commission.

2011, c.17, s.7.

PART IV COMPLAINTS

Complaints

27(1) A person may file with the commission a complaint in the form prescribed by the commission if:

- (a) the complaint falls within the jurisdiction of the commission; and
- (b) the person provides sufficient evidence that reasonable grounds exist for believing that any person has contravened a provision of this Act, or any other Act administered by the commission, with respect to a person or class of persons.

(2) Where a complaint is made by a person, other than the person who it is alleged was dealt with contrary to the provisions of this Act, or any other Act administered by the commission, the commission may refuse to act on the complaint unless the person alleged to be offended against consents.

(3) Where the commission has reasonable grounds for believing that any person has contravened a provision of this Act, or any other Act administered by the commission, in respect of a person or class of persons, the commission may initiate a complaint.

(4) One or more grounds of discrimination may be alleged in any complaint.

(5) Subject to subsection (6), but notwithstanding any other provision of this Act, the commission shall refuse to accept a complaint and shall not initiate a complaint if the complaint is made more than one year after the person making the complaint became aware, or should have been aware, of the alleged act of discrimination.

(6) The commission may accept a complaint or initiate a complaint after the one-year period mentioned in subsection (5) if in the opinion of the Chief Commissioner it is appropriate in the circumstances to do so.

1979, c.S-24.1, s.27; 1980-81, c.81, s.2; 2000, c.26, s.21; 2011, c.17, s.8.

Dismissal and deferral of complaint

27.1(1) In this section, “**proceeding**” includes a proceeding authorized by another Act, a civil proceeding or a grievance under a collective agreement.

(2) At any time after a complaint is filed or initiated pursuant to section 27, the Chief Commissioner may dismiss the complaint where he or she is of the opinion that:

- (a) the best interests of the person or class of persons on whose behalf the complaint was made will not be served by continuing with the complaint;
- (b) the complaint is without merit;
- (c) the complaint raises no significant issue of discrimination;
- (d) the substance of the complaint has been appropriately dealt with pursuant to another Act or proceeding;
- (e) the complaint is made in bad faith or for improper motives or is frivolous or vexatious;
- (f) there is no reasonable likelihood that an investigation or further investigation will reveal evidence of a contravention of this Act; or
- (g) having regard to all the circumstances of the complaint, a hearing of the complaint is not warranted.

(3) The Chief Commissioner may, at any time after a complaint is filed or initiated, defer further action if another proceeding, in the opinion of the Chief Commissioner, is more appropriate having regard to the nature of the allegations and the remedies available in the other proceeding.

2000, c.26, s.22; 2011, c.17, s.9.

Resolution, settlement or investigation of complaints

28(1) Where a complaint is filed with or initiated by the commission, the Chief Commissioner shall, subject to subsection 27(5) and section 27.1, do one or more of the following:

- (a) attempt to resolve the complaint by mediation between the parties;
- (b) attempt to negotiate a settlement of the complaint;
- (c) investigate the complaint;
- (d) continue an investigation of the complaint after an unsuccessful attempt to mediate or settle the matter.

(2) **Repealed.** 2011, c.17, s.10.

(2.1) A complaint shall be considered settled for the purposes of this Act only if the Chief Commissioner has approved the terms of the settlement.

(3) Where a complaint is settled for the purposes of this Act or a decision or order is made pursuant to section 31.3 or 31.4, the Chief Commissioner may, in his or her discretion, publicize in any manner the results of the settlement, decision or order.

(4) to (8) **Repealed.** 1989-90, c.23, s.17.

1979, c.S-24.1, s.28; 1989-90, c.23, s.17; 2000, c.26, s.23; 2011, c.17, s.10.

Search and seizure

28.1(1) For the purposes of an investigation pursuant to subsection 28(1):

- (a) the commission; or
- (b) any person authorized by the commission;

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

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

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

- (4) Every warrant issued pursuant to subsection (3) shall be executed between sunrise and sunset unless the judge otherwise directs.
- (5) For the purposes of an investigation pursuant to subsection 28(1), the commission or any person authorized by the commission may at any reasonable time:
- (a) require the production of books, documents, correspondence, records or other papers that related or may relate to the complaint;
 - (b) make any inquiries relating to the complaint, of any person, in writing or orally; and
 - (c) subject to subsection (6), on giving a receipt for books, documents, correspondence, records or other papers, remove any books, documents, correspondence, records or other papers examined pursuant to this section for the purpose of making copies or extracts of those books, documents, correspondence, records or other papers.
- (6) The commission or any person authorized by the commission shall:
- (a) carry out the copying of books, documents, correspondence, records or papers removed pursuant to clause (5)(c) with reasonable dispatch; and
 - (b) promptly return the books, documents, correspondence, records or papers after the copying to the person who produced or furnished them.
- (7) Where any person has refused or failed to comply with a demand, requirement or request pursuant to subsection (5), the commission or any person designated by the commission on application *ex parte*, may request a justice of the peace or a judge of the Provincial Court of Saskatchewan to grant an order requiring that person to immediately produce those items to the Commission or its designate, and the judge may make any other order that he considers necessary to enforce the provisions of subsection (5).
- (8) No person shall hinder, obstruct, resist, molest or interfere with the commission or any person designated by the commission, or attempt to hinder, obstruct, resist, molest or interfere with the commission or its designate, in the investigation of a complaint under this Act or any other Act administered by the commission.

1989-90, c.23, s.18; 2000, c.26, s.24; 2011, c.17, s.11.

29 Repealed. 2011, c.17, s.12.

29.1 Repealed. 2011, c.17, s.12.

29.2 Repealed. 2011, c.17, s.12.

29.3 Repealed. 2011, c.17, s.12.

29.4 Repealed. 2011, c.17, s.12.

Mediation

29.5(1) If the Chief Commissioner determines that there are no grounds to dismiss a complaint pursuant to subsection 27.1(2), he or she may, before making an application to the court pursuant to section 29.6, require the parties to enter into mediation.

(2) If the parties reach a settlement during the mediation entered into pursuant to subsection (1), the complaint shall be considered settled for the purposes of this Act.

(3) If, during the mediation entered into pursuant to subsection (1), the person against whom the complaint is made proposes an offer of settlement that the Chief Commissioner considers fair and reasonable but that the complainant rejects, the Chief Commissioner may dismiss the complaint.

2011, c.17, s.13.

Application for hearing

29.6(1) At any time after a complaint is filed or initiated pursuant to section 27, the Chief Commissioner may apply to the court for a hearing of the complaint at the judicial centre nearest to the place where the subject-matter of the complaint arose.

(2) If the Chief Commissioner applies for a hearing pursuant to subsection (1), the Chief Commissioner shall serve the person against whom the complaint was made with a copy of the application.

2011, c.17, s.13.

Hearing

29.7(1) Subject to subsection (2), on the receipt of an application for a hearing pursuant to subsection 29.6(1), the court shall fix a date, time and place for the hearing.

(2) Before setting a hearing date, the court may direct the parties to participate in a pre-hearing conference.

(3) Except where modified by this Act, *The Queen's Bench Rules* apply to a hearing pursuant to this section.

(4) The court is entitled to receive and accept evidence led for the purpose of establishing a pattern or practice of resistance to or disregard or denial of any of the rights secured by this Act, and the court is entitled to place any reliance that it considers appropriate on the evidence and on any pattern or practice disclosed by the evidence in arriving at its decision.

2011, c.17, s.13.

Costs

29.8 Neither the court nor the Court of Appeal may award costs to any party unless the court or the Court of Appeal considers that there has been vexatious, frivolous or abusive conduct on the part of any party.

2011, c.17, s.13.

Parties to proceeding

30(1) The parties to a hearing with respect to any complaint are:

- (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 the provisions of this Act;
 - (d) any person named in the complaint who is alleged to have contravened this Act; and
 - (e) any other person specified by the court, on any notice that the court may determine and after the person has been given an opportunity to be heard against the adding of the person as a party.
- (2) A true copy of the complaint shall be annexed to the notice of the hearing that is given to any party other than the commission.
- (3) A party mentioned in clause (1)(b), (c), (d) or (e) may be represented at a hearing by counsel at that party's expense.
- (4) If the court considers it appropriate in the circumstances, and subject to any conditions that the court considers necessary, a party mentioned in clause (1)(b), (c), (d) or (e) may appear at a hearing with the assistance of a third party other than counsel.

1979, c.S-24.1, s.30; 2000, c.26, s.26; 2011, c.17, s.14.

31 Repealed. 2011, c.17, s.15.

31.1 Repealed. 2011, c.17, s.15.

Dismissal of complaint

31.2 The court shall dismiss a complaint if the court finds that:

- (a) the complaint is not substantiated; or
- (b) the only basis on which the complaint could be substantiated is that the premises, facilities or services of the person complained against impede physical access or lack proper amenities for persons with disabilities and ordering that any measures be taken to improve physical access or provide proper amenities would cause undue hardship to the person complained against.

2000, c.26, s.27; 2011, c.17, s.16.

Orders by court

31.3(1) If the court finds that there has been a contravention of any provision of this Act, or any other Act administered by the commission, the court may, subject to section 31.5, order any person to do any act or thing that in the opinion of the court constitutes full compliance with that provision and to rectify any injury caused to any person and to make compensation for that injury, including:

(a) requiring that person to cease contravening that provision and to take measures, including adoption of a program mentioned in section 47, to prevent the same or a similar contravention occurring in the future;

(b) requiring that person to make available to any person injured by that contravention, on the first reasonable occasion, any rights, opportunities or privileges that, in the opinion of the court, are being or were being denied the injured person, and including reinstatement in employment;

(c) requiring that person to compensate any person injured by that contravention for any or all of the wages and other benefits of which the injured person was deprived and any expenses incurred by the injured person as a result of the contravention;

(d) requiring that person to pay any compensation that the court considers appropriate, to any person injured by that contravention, for any or all additional costs of obtaining alternative goods, services, facilities or accommodations and any expenses incurred by the injured person as a result of the contravention; and

(e) requiring that person, if the complaint is based on disability and the premises, facilities or services of the person complained against impede physical access or lack proper amenities, to make the premises, facilities or services accessible or to provide the proper amenities but only if that requirement would not cause an undue hardship.

(2) On making an order pursuant to subsection (1), the court may direct the commission to supervise the measures undertaken by the person against whom the order is made for the purpose of ensuring that proper measures are taken and that the order is being complied with by the person against whom the order is made.

(3) If the measures taken by the person against whom an order pursuant to subsection (1) is made are not satisfactory to the commission, the commission may apply to the court for an order directing compliance with the order made pursuant to subsection (1).

(4) On an application pursuant to subsection (3), the court may grant an order directing compliance and may make any other order that the court considers appropriate.

Order respecting compensation

31.4 The court may, in addition to any other order the court may make pursuant to section 31.3, order the person who has contravened or is contravening that provision to pay any compensation to the person injured by that contravention that the court may determine, to a maximum of \$10,000, if the court finds that:

- (a) a person has wilfully and recklessly contravened or is wilfully and recklessly contravening any provision of this Act or any other Act administered by the commission; or
- (b) the person injured by a contravention of any provision of this Act or any other Act administered by the commission has suffered with respect to feeling, dignity or self-respect as a result of the contravention.

2011, c.17, s.17.

Terms of order

31.5(1) No order made pursuant to section 31.3 shall contain a term:

- (a) requiring the removal of an individual from a position if that individual accepted employment in that position in good faith; or
- (b) requiring the expulsion of an occupant from any housing accommodation if the occupant obtained that housing accommodation in good faith.

(2) An order made pursuant to section 31.3 or 31.4 may require the person against whom the order is made to provide the Chief Commissioner with information respecting the implementation of the order.

2000, c.26, s.27.

31.6 Repealed. 2011, c.17, s.18.

Appeals

32(1) A decision or order of the court pursuant to section 31.2, 31.3 or 31.4 may be appealed to the Court of Appeal.

(2) The minister is entitled to be heard, by counsel or otherwise, on the argument of an appeal mentioned in subsection (1).

2011, c.17, s.19.

33 Repealed. 2011, c.17, s.20.

Immunity

34 None of the minister, the commission, a member of the commission, an employee of the commission or an individual mentioned in subsection 26.1(7) is liable for any loss or damage suffered by any person by reason of any thing done or omitted to be done in good faith pursuant to or in the exercise or supposed exercise of the powers conferred by this Act.

2011, c.17, s.21.

PART V
REMEDIES AND ENFORCEMENT

Offences and penalties

35(1) Every person who contravenes or fails to comply with an order made under section 31.3, 31.4, 32 or 38 or under subsection 47(1) is guilty of an offence and liable on summary conviction to the penalties provided in subsection (3).

(2) **Repealed.** 2000, c.26, s.31.

(3) Any person who is convicted of an offence mentioned in subsection (1) and who is:

(a) an individual is liable to a fine of not more than \$500 in the case of a first offence or to a fine of not more than \$2,000 in the case of a subsequent offence;

(b) a person other than an individual is liable to a fine of not more than \$2,000 in the case of a first offence or to a fine of not more than \$3,000 in the case of a subsequent offence.

(4) The penalties provided by this section may be enforced on the information of the Chief Commissioner or any other person in whose favour an order has been made pursuant to section 31.3, 31.4, 32 or 38.

1979, c.S-24.1, s.35; 1980-81, c.41, s.5; 2000,
c.26, s.31.

Prosecution of trade union, occupational association or employers' organization

36(1) A prosecution for an offence under this Act may be instituted against a trade union, occupational association or employers' organization in the name of the trade union, occupational association or employers' organization.

(2) For the purpose of this Act, a trade union, occupational association or an employers' organization is deemed to be a legal entity and any act or thing done or omitted to be done by an officer or agent of a trade union, occupational association or an employers' organization who is acting within the scope of the officer's or agent's authority on behalf of the trade union, occupational association or employers' organization is deemed to be an act or thing done or omitted to be done by the trade union, occupational association or employers' organization, as the case may be.

1979, c.S-24.1, s.36; 2000, c.26, s.32.

Proceeding not invalidated by technical irregularity

37 No proceeding under this Act shall be deemed to be invalid by reason of any defect in form or any technical irregularity.

1979, c.S-24.1, s.37.

Injunction

38(1) Where a person has been convicted of an offence under this Act or any other Act administered by the commission, the commission may apply by way of notice of motion to a judge of the court for an order enjoining that person from continuing or repeating the offence, and the judge may make any order that the judge considers fit.

(2) Any order made under subsection (1) may be enforced in the same manner as any other order or judgment of the court.

(3) The commission or any person may, by statement of claim, commence an action in the court against any person for an injunction to restrain the person:

(a) from depriving, abridging or otherwise restricting or attempting to deprive, abridge or restrict a person or a class of persons in the enjoyment of a right pursuant to this Act or any other Act administered by the commission; or

(b) from contravening or attempting to contravene any provision of this Act or any other Act administered by the commission.

(3.1) In an action pursuant to subsection (3), the judge may make any order that the judge considers fit.

(4) An appeal lies to the Court of Appeal from the order or decision of a judge made under subsection (3).

1979, c.S-24.1, s.38; 1993, c.61, s.17; 2011, c.17, s.22.

Onus of proof

39(1) Where, in a proceeding under this Act, it is established that the party complained against, directly or indirectly, by himself, herself or any other person on his or her behalf:

(a) deprived or attempted to deprive a person or class of persons of the enjoyment;

(b) abridged or attempted to abridge the enjoyment by a person or class of persons; or

(c) otherwise restricted or attempted to otherwise restrict a person or class of persons in the enjoyment;

of any accommodation, services or facilities which are offered to the public or which are ordinarily available to the public, or to which the public is customarily admitted, or of the occupancy of any housing accommodation or commercial unit, the onus is on the party against whom the complaint is made or the accused, as the case may be, to prove on a balance of probabilities that the deprivation, abridgment, restriction or attempted deprivation, abridgment or restriction was not because of discrimination against that person or class of persons contrary to any provisions of this Act or any other Act administered by the commission.

(2) Where, in a proceeding under this Act, it is established that the party complained against, directly or indirectly, by himself, herself or any other person on his or her behalf, refused to employ or continue to employ or otherwise discriminated against any person or class of persons with respect to employment or any term, condition or privilege of employment, the onus is on the party against whom the complaint is made or the accused, as the case may be, to prove on a balance of probabilities that the refusal or discrimination was not because of discrimination against that person or class of persons contrary to any provision of this or any other Act administered by the commission.

1979, c.S-24.1, s.39; 2000, c.26, s.33.

Court may order compensation to and reinstatement of an employee

40 Where an employer is convicted for violation of section 16 or of having suspended, transferred, laid off or discharged an employee contrary to this Act, the convicting court may, in addition to any other penalty, order the employer to pay to the employee compensation for loss of employment in an amount not exceeding an amount that, in the opinion of the court, is equivalent to the wages, salary or remuneration that would have accrued to the employee up to the date of conviction but for the suspension, transfer, layoff or discharge, and may order the employer to reinstate the employee in his or her employ, at any date that, in the opinion of the court, is just and proper in the circumstances, in the position the employee would have held but for the suspension, transfer, layoff or discharge.

1979, c.S-24.1, s.40; 2000, c.26, s.34.

No imprisonment

41 Notwithstanding any other Act, no person shall be imprisoned for default of payment of a fine imposed pursuant to this Act.

1979, c.S-24.1, s.41.

Conviction entered as judgement

42 Where a fine imposed pursuant to a conviction for a contravention of subsection 35(1) or (2) is not paid within the time designated by the court, the commission may, by filing the conviction, enter as a judgement in the Court of Queen's Bench the amount ordered to be paid, and that amount is enforceable against the accused in the same manner as any other judgement in civil proceedings in that court.

1979, c.S-24.1, s.42.

**PART VI
GENERAL**

Act binds Crown

43 This Act binds the Crown.

1979, c.S-24.1, s.43.

Act takes precedence unless expressly excluded

44 Every law of Saskatchewan is inoperative to the extent that it authorizes or requires the doing of anything prohibited by this Act unless it falls within an exemption provided by this Act or unless it is expressly declared by an Act of the Legislature to operate notwithstanding this Act.

1979, c.S-24.1, s.44.

Discrimination for taking part in proceedings under this Act prohibited

45 No person shall:

- (a) refuse to employ or to continue to employ any person;
- (b) threaten to dismiss or to penalize in any other way any person with respect to that person's employment or any term, condition or privilege thereof;
- (c) discriminate against any person with respect to that person's employment or any term, condition or privilege thereof; or
- (d) intimidate, retaliate against, coerce or impose any pecuniary or other penalty, loss or other disadvantage upon any person;

on the grounds that that person:

- (e) has made or may make a complaint under this Act;
- (f) has made or may make a disclosure concerning any matter complained of;
- (g) has testified or may testify in a proceeding under this Act; or
- (h) has participated or may participate in any other way in a proceeding under this Act.

1979, c.S-24.1, s.45; 2000, c.26, s.35.

Regulations

46 For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant Governor in Council or the commission, subject to the approval of the Lieutenant Governor in Council, may make regulations that are ancillary to this Act, and every regulation made under this section has the force of law and, without restricting the generality of the foregoing, the Lieutenant Governor in Council or the commission, subject to the approval of the Lieutenant Governor in Council, may make regulations:

- (a) defining any word or expression used in this Act but not defined in this Act;
- (b) exempting persons or classes of persons from the provisions of Part II subject to any terms and conditions that the Lieutenant Governor in Council or commission may specify;
- (c) prescribing procedures for the commencement and conduct of inquiries;
- (d) prescribing qualifications for service animals;

- (e) prescribing contracts or categories of contracts for the purposes of subsection 15(1.2);
- (f) respecting information to be provided by persons complained against;
- (g) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
- (h) respecting any other matter or thing that the Lieutenant Governor in Council, or the commission with the approval of the Lieutenant Governor in Council, considers necessary to carry out the intent of this Act.

1979, c.S-24.1, s.46; 2000, c.26, s.36.

Programs, orders or approval of by commission

47(1) On the application of any person or on its own initiative, the commission may approve or order any program to be undertaken by any person if the program is designed to prevent disadvantages that are likely to be suffered by, or to eliminate or reduce disadvantages that are suffered by, any group of individuals when those disadvantages would be or are based on or related to the race, creed, religion, colour, sex, sexual orientation, family status, marital status, disability, age, nationality, ancestry or place of origin of members of that group, or the receipt of public assistance by members of that group by improving opportunities respecting services, facilities, accommodation, employment or education in relation to that group or the receipt of public assistance by members of that group.

(2) At any time before or after approval to a program is given by the commission, or a program is ordered by the commission or the court, the commission may:

- (a) make inquiries concerning the program;
- (b) vary the program;
- (c) impose conditions on the program; or
- (d) withdraw approval of the program as the commission thinks fit.

(3) Nothing done in accordance with a program approved pursuant to this section is a violation of the provisions of this Act.

1979, c.S-24.1, s.47; 1989-90, c.23, s.20; 1993, c.61, s.18; 2000, c.26, s.37; 2011, c.17, s.23.

Reasonable and justifiable measures

48(1) Subject to subsection (2), it is not a contravention of this Act for a person to adopt or implement a reasonable and justifiable measure:

- (a) designed to prevent disadvantages that are likely to be suffered by, or to eliminate or reduce disadvantages that are suffered by, any group of individuals if those disadvantages would be or are based on or related to one or more prohibited grounds; and
- (b) that achieves or is reasonably likely to achieve that object.

(2) If a program has been approved or ordered pursuant to section 47, a measure mentioned in subsection (1) must comply with the terms and conditions of that program.

2011, c.17, s.24.

Annual report

49(1) The commission shall, in each fiscal year, in accordance with *The Tabling of Documents Act*, submit to the minister a report upon the administration of this Act and in particular upon:

(a) **Repealed.** 2011, c.17, s.25.

(b) **Repealed.** 2011, c.17, s.25.

(c) **Repealed.** 2011, c.17, s.25.

(c.1) the commission's business for the preceding fiscal year; and

(d) any other information the commission may consider necessary.

(2) The minister shall, in accordance with *The Tabling of Documents Act*, lay before the Legislative Assembly each report received by the minister pursuant to subsection (1).

1979, c.S-24.1, s.49; 2000, c.26, s.39; 2011, c.17, s.25.

Appropriation

50 Sums required for the purposes of this Act shall be paid out of moneys appropriated by the Legislature for the purpose.

1979, c.S-24.1, s.50.

REPEAL**R.S.S. 1978, c.B-3.1, c.F-2, c.F-3, c.S-9 and c.S-25 repealed**

51 *The Blind Persons' Rights Act, The Fair Accommodation Practices Act, The Fair Employment Practices Act, The Saskatchewan Bill of Rights Act and The Saskatchewan Human Rights Commission Act* are repealed.

1979, c.S-24.1, s.51.