

# *The Saskatchewan Human Rights Code, 2018*

*being*

[Chapter S-24.2](#) of the *Statutes of Saskatchewan, 2018* (effective October 1, 2018) as amended by the *Statutes of Saskatchewan, 2019, c.L-10.2*; and [2023, c.23](#) and [c.28](#).

## **NOTE:**

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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## CHAPTER S-24.2

### An Act respecting the Saskatchewan Human Rights Code and its Administration and repealing a certain Act

#### PART 1 Preliminary Matters

##### Short title

**1** This Act may be cited as *The Saskatchewan Human Rights Code, 2018*.

##### Definitions

**2(1)** In this Act:

“**age**” means any age of 18 years or more; (« *âge* »)

“**commercial unit**” means a building or other structure or part of it that is used or occupied, or that is intended, arranged or designed to be used or occupied:

- (a) for the manufacture, sale, resale, processing, reprocessing, displaying, storing, handling, garaging or distribution of personal property; or
- (b) as a separate business, professional unit or office; (« *local commercial* »)

“**commission**” means the Saskatchewan Human Rights Commission; (« *commission* »)

“**court**” means the Court of King’s Bench; (« *tribunal* »)

“**creed**” means religious creed; (« *foi* »)

“**disability**” means:

- (a) any degree of physical disability, infirmity, malformation or disfigurement, including:
  - (i) epilepsy;
  - (ii) any degree of paralysis;
  - (iii) amputation;
  - (iv) lack of physical coordination;
  - (v) blindness or visual impediment;
  - (vi) deafness or hearing impediment;
  - (vii) muteness or speech impediment; or
  - (viii) physical reliance on a service animal, wheelchair or other remedial appliance or device; or

- (b) any of the following disabilities:
  - (i) an intellectual disability or impairment;
  - (ii) a learning disability, or a dysfunction in one or more of the processes involved in the comprehension or use of symbols or spoken language;
  - (iii) a mental disorder; (« *incapacité* »)

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

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

**“employers’ organization”** means an organization of employers formed for purposes that include the regulation of relations between employers and employees; (« *organisation patronale* »)

**“employment agency”** includes a person who undertakes, with or without compensation:

- (a) to procure employees for employers; or
- (b) to procure employment for persons; (« *agence de placement* »)

**“family status”** means the status of being in a parent and child relationship and, for the purposes of this definition:

- (a) **“child”** means son, daughter, stepson, stepdaughter, adopted child and person to whom another person stands in place of a parent;
- (b) **“parent”** means father, mother, stepfather, stepmother, adoptive parent and person who stands in place of a parent to another person; (« *situation de famille* »)

**“fiscal year”** means the period commencing on April 1 in one year and ending on March 31 in the following year; (« *exercice financier* »)

**“housing accommodation”** means any dwelling unit, and includes any place where other services are provided in addition to accommodation, but does not include a dwelling unit:

- (a) that is part of a building in which the owner or the owner’s family resides; and
- (b) in which the occupant of the dwelling unit is required to share a bathroom or kitchen facility with the owner or the owner’s family; (« *logement* »)

**“marital status”** means the status 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; (« *état matrimonial* »)

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

- (a) judgment;
- (b) capacity to recognize reality;

- (c) ability to associate with others; or
- (d) ability to meet the ordinary demands of life; (« *trouble mental* »)

“**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned; (« *ministre* »)

“**occupational association**” means an organization, other than a trade union or employers’ organization, in which membership is a prerequisite to carrying on a trade, occupation or profession; (« *ordre professionnel* »)

“**offer**” includes an invitation to treat; (« *offre* »)

“**person**”, in addition to the extended meaning contained in *The Legislation Act*, includes an employment agency, an employers’ organization, an occupational association and a trade union; (« *personne* »)

“**prohibited ground**” means one of the following prohibited grounds of discrimination:

- (a) religion;
- (b) creed;
- (c) marital status;
- (d) family status;
- (e) sex;
- (f) sexual orientation;
- (g) disability;
- (h) age;
- (i) colour;
- (j) ancestry;
- (k) nationality;
- (l) place of origin;
- (m) race or perceived race;
- (n) receipt of public assistance;
- (o) gender identity; (« *motif illicite* »)

“**receipt of public assistance**” means the receipt of:

- (a) assistance as defined in *The Saskatchewan Assistance Act*; or
- (b) a benefit as defined in *The Saskatchewan Income Plan Act*; (« *réception d’aide sociale* »)

“**religion**” includes all aspects of religious observance and practice as well as beliefs; (« *religion* »)

“**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; (« *sexe* »)

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

**“undue hardship”**, for the purposes of sections 38 and 39, means intolerable financial cost or disruption to business having regard to the effect on:

- (a) the financial stability and profitability of the business undertaking;
- (b) the value of existing amenities, structures and premises as compared to the cost of providing proper amenities or physical access;
- (c) the essence or purpose of the business undertaking; and
- (d) 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 if those facilities must be provided by law for persons of both sexes. (« *contrainte excessive* »)

- (2) Nothing in Part 3 prohibits a distinction on the basis of age if that distinction is permitted or required by any Act or regulation in force in Saskatchewan.

2018, cS-24.2, s.2; 2019, cL-10.2, s.6-6; 2023, c28, s.17-11.

#### Objects

- 3** The objects of this Act are:

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

2018, cS-24.2, s.3.

## PART 2 Bill of Rights

#### Right to freedom of conscience

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

2018, cS-24.2, s.4.

#### Right to free expression

- 5** Every person and every class of persons has the right to freedom of expression through all means of communication, including the arts, speech, the press or radio, television or any other broadcasting device.

2018, cS-24.2, s.5.

**Right to free association**

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

2018, cS-24.2, s.6.

**Right to freedom from arbitrary imprisonment**

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

2018, cS-24.2, s.7.

**Right to elections**

**8** Every qualified voter resident in Saskatchewan has the right:

- (a) to exercise freely his or her franchise in all elections; and
- (b) to require that no Legislative Assembly continue for a period of more than 5 years.

2018, cS-24.2, s.8.

**PART 3****Prohibition of Certain Discriminatory Practices****Right to engage in occupations**

**9** Every person and every class of persons has 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.

2018, cS-24.2, s.9.

**Discrimination in sale of property prohibited**

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

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

(2) Nothing in subsection (1) prohibits the sale, the offering for sale or the advertising for sale of a dwelling unit for occupancy exclusively by persons who are 55 years of age or more.

2018, cS-24.2, s.10.

**Discrimination in rental of property 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 a person or class of persons occupancy of any commercial unit or any housing accommodation; or
  - (b) discriminate against a person or class of persons with respect to any term or condition 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 if the occupancy of all of 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 of a person with respect to the renting or leasing of a dwelling unit in any housing accommodation that is composed of not more than 2 dwelling units that share a common entrance, if the owner of the housing accommodation or the owner's family resides in one of the 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 exclusively by persons who are 55 years of age or more.

2018, cS-24.2, s.11.

**Discrimination in accommodation, service or facility prohibited**

**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 a person or class of persons any accommodation, service or facility to which the public is customarily admitted or that is offered to the public; or
  - (b) discriminate against a person or class of persons with respect to any accommodation, service or facility to which the public is customarily admitted or that is offered to the public.
- (2) Subsection (1) does not apply to prevent the barring of any person on the basis of that person's sex from any accommodation, service or facility on the ground of public decency.
- (3) Subsection (1) does not apply to prevent the giving of preference on the basis of age, marital status or family status with respect to membership dues, fees or other charges for services or facilities.

2018, cS-24.2, s.12.

**Right to education**

**13(1)** Every person and every class of persons has 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 if:

- (a) it enrolls persons of a particular sex, creed or religion exclusively;
- (b) it is operated by a religious order or society; or
- (c) it enrolls persons with a disability.

2018, cS-24.2, s.13.

#### **Discriminatory publications prohibited**

**14(1)** No person shall publish or display, or cause or permit to be published or displayed, before the public any statement, publication, notice, sign, symbol, emblem 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 the law; or
- (b) that exposes or tends to expose to hatred 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 on any subject.

2018, cS-24.2, s.14.

#### **Discrimination in contracts prohibited**

**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 a term or condition in the contract that discriminates against a person or class of persons on the basis of a prohibited ground.

(2) The right pursuant to subsection (1) does not apply to discrimination on the basis of disability within the meaning of clause (b) of the term “disability” as defined in subsection 2(1) if a person refuses to contract with another person who does not have the legal capacity to contract.

(3) The right pursuant to subsection (1) is not infringed if the contract 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 on the basis of disability, age or family status.

2018, cS-24.2, s.15.

#### **Discrimination in employment prohibited**

**16(1)** No employer shall refuse to employ, refuse to continue to employ or otherwise discriminate against a person or class of persons with respect to employment, or a term or condition 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 on the basis of a prohibited ground against a person or class of persons:
- (a) in receiving, classifying, disposing of or otherwise acting on applications for the agency's services; or
  - (b) in referring a person to an employer.
- (4) No employer, in the hiring or recruitment of persons for employment, shall use an employment agency that discriminates on the basis of a prohibited ground against a person or class of persons seeking employment.
- (5) No provision of this section relating to age prohibits the operation of any term or condition of:
- (a) a *bona fide* retirement, superannuation or pension plan;
  - (b) a *bona fide* group or employee insurance plan; or
  - (c) any *bona fide* scheme based on seniority.
- (6) Nothing in this section deprives a college established pursuant to an Act, a school, a board of education, the Conseil scolaire fransaskois or the Saskatchewan Distance Learning Corporation of the right to employ persons of a particular religion or religious creed if religious instruction forms or may form the whole or part of the instruction or training provided by the college established pursuant to an Act or provided by the school, board of education, Conseil scolaire fransaskois or Saskatchewan Distance Learning Corporation, as the case may be, pursuant to *The Education Act, 1995*.
- (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 if sex, ability or age is a reasonable and *bona fide* 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 on the basis of any prohibited ground if the employee is:
- (a) employed in a private home; or
  - (b) living in the employer's home.
- (9) The provisions of this section shall not be construed to prohibit distinctions in terms or conditions of employment if 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, gender identity, sexual orientation, family status, marital status, disability, age, nationality, ancestry, place of origin or receipt of public assistance from only employing, or from giving preference in employment to, persons similarly identified if the qualification is a reasonable and *bona fide* qualification given 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 if 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 if a reasonable and *bona fide* cause exists for the employer's refusal.

2018, cS-24.2, s.16; 2023, c23, s.83.

#### **Right to membership in occupational associations**

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

2018, cS-24.2, s.17.

#### **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.

2018, cS-24.2, s.18.

#### **Employment applications and advertisements not to express discrimination**

**19(1)** No person shall use or circulate any form of application for employment to which this Act applies, 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:

- (a) that expresses, directly or indirectly, a limitation, specification or preference indicating discrimination or an intention to discriminate on the basis of a prohibited ground; or
- (b) that contains a question or request for particulars with respect to a prohibited ground.

(2) Notwithstanding subsection (1), for the purposes of subsection 16(6) 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(6) or (10).

2018, cS-24.2, s.19.

## **PART 4 Administration**

#### **Interpretation of “member”**

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

2018, cS-24.2, s.20.

**Commission**

- 21(1)** The Saskatchewan Human Rights Commission is continued.
- (2) The persons appointed as members pursuant to *The Saskatchewan Human Rights Code* continue as members until such time as new members are appointed pursuant to this section.
- (3) The commission consists of not less than 3 members appointed by the Lieutenant Governor in Council.
- (4) The Lieutenant Governor in Council:
- (a) shall designate one member as Chief Commissioner; and
  - (b) may designate another member as Deputy Chief Commissioner.
- (5) Subject to subsections (6) and (7), each member:
- (a) holds office for a term of 5 years and, notwithstanding the expiry of his or her term, continues to hold office until a successor is appointed; and
  - (b) is eligible for reappointment for further terms of 5 years.
- (6) If a member dies or resigns, that person ceases to be a member on the date of death or on the date on which the resignation is received by the minister.
- (7) If the office of a person appointed pursuant to this section becomes vacant, the Lieutenant Governor in Council may appoint a person to fill the vacancy for the remainder of the term of the person who vacated the office.
- (8) The Lieutenant Governor in Council shall fix the remuneration and rate of reimbursement for expenses to be paid to the members.
- (9) A quorum of the commission is a majority of the members or 3 members, whichever is fewer.
- (10) A decision of a quorum of the commission is the decision of the commission.
- (11) In the event of an equality of votes on any matter before the commission:
- (a) the Chief Commissioner has a casting vote; or
  - (b) in the absence or inability to act of the Chief Commissioner, the Deputy Chief Commissioner has a casting vote.

2018, cS-24.2, s.21.

**Appointment of staff and consultants and payment of witness fees**

- 22(1)** The commission may:
- (a) appoint or employ any officers and employees that it considers necessary for the proper conduct of its business; and
  - (b) determine the respective duties and powers, the conditions of employment and the remuneration of those officers and employees.
- (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 King's Bench Act*.

2018, cS-24.2, s.22; 2023, c28, s.17-11.

#### **Superannuation**

**23** *The Public Service Superannuation Act* and *The Superannuation (Supplementary Provisions) Act* apply, with any necessary modification, to persons appointed or employed by the commission pursuant to subsection 22(1).

2018, cS-24.2, s.23.

#### **Duties of commission**

**24** 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, gender identity, 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 Saskatchewan 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.

2018, cS-24.2, s.24.

#### **Financial requirements**

**25** 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.

2018, cS-24.2, s.25.

**Provision of services**

**26** The minister may provide services to the commission to carry out the purposes of this Act.

2018, cS-24.2, s.26.

**Administration**

**27** 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 the commission.

2018, cS-24.2, s.27.

**Delegation of powers**

**28(1)** The Chief Commissioner may, in writing, delegate to a member or to an employee of the commission any of the Chief Commissioner's 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:

- (a) subject to any restrictions and conditions that the Chief Commissioner considers appropriate; and
- (b) either generally or in relation to a particular case or matter or class of cases or matters.

(5) A delegation continues in force until it is revoked, 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.

2018, cS-24.2, s.28.

## PART 5 Complaints

### Complaints

**29(1)** A person may file a complaint with the commission, 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 a person has, with respect to a person or class of persons, contravened:
  - (i) this Act; or
  - (ii) any other Act administered by the commission.

(2) If a complaint is made by a person other than the person who it is alleged was dealt with contrary to 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) The commission may initiate a complaint if the commission has reasonable grounds for believing that a person has, with respect to a person or class of persons, contravened:

- (a) this Act; or
- (b) any other Act administered by the commission.

(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 or initiate a complaint after the one-year period mentioned in subsection (5) if, in the Chief Commissioner's opinion, it is appropriate in the circumstances to do so.

2018, cS-24.2, s.29.

### Dismissal and deferral of complaint

**30(1)** In this section, "**proceeding**" includes the following:

- (a) a proceeding authorized by another Act;
- (b) a civil proceeding;
- (c) a grievance under a collective agreement.

(2) At any time after a complaint is filed or initiated pursuant to section 29, the Chief Commissioner may dismiss the complaint if, in his or her opinion:

- (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:
    - (i) is made in bad faith or for improper motives; or
    - (ii) 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 any other Act administered by the commission; or
  - (g) having regard to all the circumstances of the complaint, a hearing of the complaint is not warranted.
- (3) At any time after a complaint is filed or initiated, the Chief Commissioner may defer further action if, in the Chief Commissioner's opinion, another proceeding is more appropriate having regard to:
- (a) the nature of the allegations; and
  - (b) the remedies available in the other proceeding.

2018, cS-24.2, s.30.

#### **Resolution, settlement or investigation of complaints**

**31(1)** If a complaint is filed with or initiated by the commission, the Chief Commissioner, subject to subsection 29(5) and section 30, shall 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) 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) When a complaint is settled for the purposes of this Act or a decision or order is made pursuant to section 39 or 40, the Chief Commissioner may, in his or her discretion, publicize in any manner the results of the settlement, decision or order.

2018, cS-24.2, s.31.

#### **Search and seizure**

**32(1)** In this section, “**investigator**” means a person authorized by the commission to investigate a complaint.



- (2) For the purposes of an investigation pursuant to subsection 31(1), the commission or an investigator may, with the consent of the owner or occupier, enter into any premises that in the opinion of the commission or the investigator may provide information relating to the investigation.
- (3) For the purposes of an investigation pursuant to subsection 31(1), the commission or an investigator may, at any reasonable time:
- (a) require the production of books, documents, correspondence, records or other papers that relate 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 (4), 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.
- (4) The commission or the investigator shall:
- (a) carry out the copying of books, documents, correspondence, records or papers removed pursuant to clause (3)(c) with reasonable dispatch; and
  - (b) promptly return the books, documents, correspondence, records or papers after the copying to the person who produced them.
- (5) If any person refuses or fails to comply with a demand, requirement or request pursuant to subsection (3), the commission or the investigator may, on application without notice, apply to the court for:
- (a) an order requiring that person to immediately produce books, documents, correspondence, records or other papers for the purpose of an investigation;
  - (b) an order requiring that person to respond to inquiries made pursuant to clause (3)(b); or
  - (c) any other order the court considers necessary.
- (6) No person shall hinder, obstruct, resist, molest or interfere with the commission or an investigator, or attempt to hinder, obstruct, resist, molest or interfere with the commission or an investigator, in the investigation of a complaint made pursuant to this Act or any other Act administered by the commission.

2018, cS-24.2, s.32.

#### **Mediation**

- 33(1)** If the Chief Commissioner determines that there are no grounds to dismiss a complaint pursuant to subsection 30(2), before making an application to the court pursuant to section 34, the Chief Commissioner may 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.

2018, cS-24.2, s.33.

**Application for hearing**

**34(1)** At any time after a complaint is filed or initiated pursuant to section 29, 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 a copy of the application on the person against whom the complaint was made.

2018, cS-24.2, s.34.

**Hearing**

**35(1)** Subject to subsection (2), on the receipt of an application for a hearing pursuant to subsection 34(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 King's Bench Rules* apply to a hearing pursuant to this section.

(4) The court is entitled:

(a) 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

(b) in arriving at its decision, to place any reliance that it considers appropriate on the evidence and on any pattern or practice disclosed by the evidence.

2018, cS-24.2, s.35; 2023, c28, s.17-11.

**Costs**

**36** 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.

2018, cS-24.2, s.36.

**Parties to proceeding**

**37(1)** The parties to a hearing with respect to a 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, other than the complainant, named in the complaint who is alleged to have been dealt with contrary to this Act or any other Act administered by the commission;

(d) any person named in the complaint who is alleged to have contravened this Act or any other Act administered by the commission; and

(e) any other person specified by the court, on any notice that the court determines, and after that person has been given an opportunity to be heard against being made a party.

- (2) A copy of the complaint must 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.

2018, cS-24.2, s.37.

#### **Dismissal of complaint**

**38** The court shall dismiss a complaint if the court finds:

- (a) that the complaint is not substantiated; or
- (b) that:
  - (i) 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
  - (ii) ordering that measures be taken to improve physical access or provide proper amenities would cause undue hardship to the person complained against.

2018, cS-24.2, s.38.

#### **Orders by court**

**39(1)** If the court finds that there has been a contravention of this Act or any other Act administered by the commission, the court may, subject to section 41, 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 55, 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 for 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 for any expenses incurred by the injured person as a result of the contravention; and

- (e) 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, requiring that person 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.

2018, cS-24.2, s.39.

#### **Special compensation**

**40** In addition to any order the court may make pursuant to section 39, the court may 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 \$20,000, if the court finds that:

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

2018, cS-24.2, s.40.

#### **Terms of order**

**41(1)** No order made pursuant to section 39 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 39 or 40 may require the person against whom the order is made to provide the Chief Commissioner with information respecting the implementation of the order.

2018, cS-24.2, s.41.

**Appeals**

**42(1)** A decision or order of the court pursuant to section 38, 39 or 40 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).

2018, cS-24.2, s.42.

**Immunity**

**43** No action or proceeding lies or shall be commenced against the minister, the Government of Saskatchewan, the commission, a member of the commission, an employee or agent of the commission, or an individual mentioned in subsection 28(7) for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any of them pursuant to or in the exercise or supposed exercise of any power conferred by this Act or in the carrying out or supposed carrying out of any duty imposed by this Act.

2018, cS-24.2, s.43.

**PART 6****Remedies and Enforcement****Offences and penalties**

**44(1)** Every person who contravenes subsection 32(5) or contravenes or fails to comply with an order made pursuant to section 39, 40, 42 or 47 or pursuant to subsection 55(1) is guilty of an offence and liable on summary conviction to the penalties provided in subsection (2).

(2) Any person who is convicted of an offence mentioned in subsection (1) is liable to a fine of not more than:

- (a) \$10,000 in the case of a first offence; and
- (b) \$25,000 in the case of a subsequent offence.

(3) 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 39, 40, 42 or 47.

2018, cS-24.2, s.44.

**Prosecution of trade union, occupational association or employers' organization**

**45(1)** A prosecution for an offence under this Act may be brought against a trade union, occupational association or employers' organization in the name of the trade union, occupational association or employers' organization.

(2) For the purposes 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 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.

2018, cS-24.2, s.45.

**Technical defects**

**46** No proceeding pursuant to this Act shall be considered invalid by reason of a defect in form or a technical irregularity.

2018, cS-24.2, s.46.

**Injunction**

**47(1)** If a person has been convicted of an offence under this Act or any other Act administered by the commission, the commission may apply, by notice of application, 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) An order made pursuant to 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 this Act or any other Act administered by the commission.

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

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

2018, cS-24.2, s.47.

**Onus of proof**

**48(1)** If, in a proceeding pursuant to 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, service or facility that is offered to the public, that is 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 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 this Act or any other Act administered by the commission.

(2) If, in a proceeding pursuant to this Act, it is established that the party complained against, directly or indirectly, alone or with another or by the interposition of another, refused to employ or continue to employ or otherwise discriminated against a person or class of persons with respect to employment or a term, condition or privilege of employment, the onus is on the party against whom the complaint is made 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 this Act or any other Act administered by the commission.

2018, cS-24.2, s.48.

**No imprisonment**

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

2018, cS-24.2, s.49.

**Conviction entered as judgment**

**50** If a fine imposed pursuant to a conviction for a contravention of subsection 44(1) is not paid within the time designated by the court:

- (a) the commission may, by filing the conviction with the court, have the amount ordered to be paid entered as a judgment of the court; and
- (b) the amount entered as a judgment pursuant to clause (a) is enforceable against the accused in the same manner as any other judgment in civil proceedings in the court.

2018, cS-24.2, s.50.

**PART 7**  
**General**

**Crown bound**

**51** The Crown is bound by this Act.

2018, cS-24.2, s.51.

**Act takes precedence unless expressly excluded**

**52** Every law of Saskatchewan is inoperative to the extent that it authorizes or requires the doing of anything prohibited by this Act unless:

- (a) that law falls within an exemption provided by this Act; or
- (b) that law is expressly declared by an Act to operate notwithstanding this Act.

2018, cS-24.2, s.52.

**Protection against intimidation or discrimination****53** 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 of that person's employment;
- (c) discriminate against any person with respect to that person's employment or any term, condition or privilege of that person's employment; or
- (d) intimidate, retaliate against, coerce or impose any pecuniary or other penalty, loss or disadvantage on any person;

on the grounds that that person:

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

2018, cS-24.2, s.53.

**Regulations**

**54** The Lieutenant Governor in Council, or the commission subject to the approval of the Lieutenant Governor in Council, may make regulations:

- (a) defining, enlarging or restricting the meaning of 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 3, 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(3);
- (f) respecting information to be provided by persons complained against;
- (g) prescribing any matter or thing that is authorized or required 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.

2018, cS-24.2, s.54



**Programs, approved or ordered by commission**

**55(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, gender identity, 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 the commission approves a program, 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.

2018, cS-24.2, s.55.

**Reasonable and justifiable measures**

**56(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) that 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 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 objective.

(2) If a program has been approved or ordered pursuant to section 55, a measure mentioned in subsection (1) must comply with the terms and conditions of that program.

2018, cS-24.2, s.56.

**Annual report**

**57(1)** In each fiscal year, the commission, in accordance with section 13 of *The Executive Government Administration Act*, shall submit to the minister a report on the administration of this Act, and in particular on:

- (a) the commission's business for the preceding fiscal year; and
- (b) any other information the commission may consider necessary.

(2) In accordance with section 13 of *The Executive Government Administration Act*, the minister shall lay before the Legislative Assembly each report received by the minister pursuant to subsection (1).

2018, cS-24.2, s.57.

**Appropriation**

**58** Amounts required for the purposes of this Act shall be paid out of the moneys appropriated by the Legislature for the purpose.

2018, cS-24.2, s.58.

**PART 8**

**Repeal and Coming into Force**

**SS 1979, c S-24.1 repealed**

**59** *The Saskatchewan Human Rights Code* is repealed.

2018, cS-24.2, s.59.

**Coming into force**

**60** This Act comes into force on proclamation.

2018, cS-24.2, s.60.