# **Table of Contents**

# CANADIAN HUMAN RIGHTS ACT

# SHORT TITLE

1 Short title

# PURPOSE OF ACT

- 2 Purpose
  - § 2:1 Commentary and Related Provisions
  - § 2:2 Case Law—General
  - § 2:3 —Accommodation
  - § 2:4 —Application/Jurisdiction

# PART I PROSCRIBED DISCRIMINATION (SS. 3-25)

#### **GENERAL**

- 3 Prohibited grounds of discrimination
  - § 3:1 Commentary and Related Provisions
  - § 3:2 Case Law—General
  - § 3:3 —Race
  - § 3:4 —National or Ethnic Origin
  - § 3:5 —Age
  - § 3:6 —Sex
  - § 3:7 —Sexual Orientation
  - § 3:8 —Marital Status
  - § 3:9 —Family Status
  - § 3:10 —Disability
  - § 3:11 —Pregnancy
- 3.1 Multiple grounds of discrimination
  - § 3.1:1 Commentary and Related Provisions
  - § 3.1:2 Case Law
- 4 Orders regarding discriminatory practices
  - § 4:1 Commentary and Related Provisions
  - § 4:2 Case Law

# **DISCRIMINATORY PRACTICES**

- 5 Denial of good, service, facility or accommodation
  - § 5:1 Commentary and Related Provisions

#### Annotated Canadian Human Rights Act

- § 5:2 Case Law
- § 5:3 —Section 5(a)
- 6 Denial of commercial premises or residential accommodation
  - § 6:1 Commentary and Related Provisions
- 7 Employment
  - § 7:1 Commentary and Related Provisions
  - § 7:2 Case Law—Section 7
  - § 7:3 —Section 7—Marital Status
  - § 7:4 —Section 7(a)—General
  - § 7:5 —Section 7(a)—Age
  - § 7:6 —Section 7(a)—Marital Status
  - § 7:7 —Section 7(a)—Family Status
  - § 7:8 —Section 7(a)—Criminal Record
  - § 7:9 —Section 7(a)—Disability
  - § 7:10 —Section 7(a)—Race
  - § 7:11 —Section 7(a)—Religion
  - § 7:12 —Section 7(a)—Sex (including pregnancy)
  - § 7:13 —Section 7(a)—Sexual Orientation
  - § 7:14 —Section 7(a)—Ethnic Origin
  - § 7:15 —Section 7(a)—Colour
  - § 7:16 —Section 7(b)—General
  - § 7:17 —Section 7(b)—Age
  - § 7:18 —Section 7(b)—Marital Status
  - § 7:19 —Section 7(b)—Family Status
  - § 7:20 —Section 7(b)—Disability
  - § 7:21 —Section 7(b)—National/Ethnic Origin
  - § 7:22 —Section 7(b)—Race
  - § 7:23 —Section 7(b)—Religion
  - § 7:24 —Section 7(b)—Sex (including Pregnancy)
  - § 7:25 —Section 7(b)—Sexual Orientation
- 8 Employment applications, advertisements
  - § 8:1 Commentary and Related Provisions
- 9 Employee organizations
  - § 9:1 Commentary and Related Provisions
  - § 9:2 Case Law
- 10 Discriminatory policy or practice
  - § 10:1 Commentary and Related Provisions
  - § 10:2 Case Law
- 11 Equal wages
  - § 11:1 Commentary and Related Provisions
  - § 11:2 Case Law
- 12 Publication of discriminatory notices, etc

#### TABLE OF CONTENTS

- § 12:1 Commentary and Related Provisions
- § 12:2 Case Law
- 13 [Repealed 2013, c. 37, s. 2.]
- 14 Harassment
  - § 14:1 Commentary and Related Provisions
  - § 14:2 Case Law
  - § 14:3 —Section 14(1)
  - § 14:4 —Section 14(1)(c)
  - § 14:5 —Section 14(2)
- 14.1 Retaliation
  - § 14.1:1 Commentary
  - § 14.1:2 Case Law—Section 14.1
- 15 Exceptions
  - § 15:1 Commentary and Related Provisions
  - § 15:2 Case Law—Section 15
  - § 15:3 —Section 15(1)(a)—bona fide occupational requirement (general)
  - § 15:4 —Section 15(1)(a)—bona fide occupational requirement (age)
  - § 15:5 —Section 15(1)(a)—bona fide occupational requirement (marital status)
  - § 15:6 —Section 15(1)(a)—bona fide occupational requirement (disability)
  - § 15:7 —Section 15(1)(a)—bona fide occupational requirement (sex)
  - § 15:8 —Section 15(1)(a)—bona fide occupational requirement (race)
  - § 15:9 —Section 15(1)(a)—bona fide occupational requirement (religion)
  - § 15:10 —Section 15(1)(b)
  - § 15:11 —Section 15(1)(c)
  - § 15:12 —Section 15(1)(g)—bona fide justification
  - § 15:13 —Section 5(b)
  - § 15:14 —Section 15(2)—accommodation to the point of undue hardship
- 16 Special programs
  - § 16:1 Commentary
  - § 16:2 Case Law—Section 16—General
  - § 16:3 —Section 16(1)
- 17 Plans to meet the needs of disabled persons
  - § 17:1 Commentary and Related Provisions
- 18 Rescinding approval of plan
  - § 18:1 Commentary and Related Provisions

- 19 Opportunity to make representations
  - § 19:1 Commentary and Related Provisions
- 20 Certain provisions not discriminatory
  - § 20:1 Commentary and Related Provisions
- 21 Funds and plans
  - § 21:1 Commentary and Related Provisions
- 22 Regulations
  - § 22:1 Commentary and Related Provisions
- 23 Regulations
  - § 23:1 Related Provisions
- 24 Accessibility standards
  - § 24:1 Commentary and Related Provisions
- 25 Definitions
  - § 25:1 Commentary and Related Provisions
  - § 25:2 Case Law—Section 25—"Disability"
  - § 25:3 —Section 25—"Employment"

# PART II CANADIAN HUMAN RIGHTS COMMISSION (SS. 26–38.4)

- 26 Commission established
  - § 26:1 Commentary and Related Provisions
  - § 26:2 Case Law

# POWERS, DUTIES AND FUNCTIONS

- 27 Powers, duties and functions
  - § 27:1 Commentary and Related Provisions
  - § 27:2 Case Law
- 28 Assignment of duties
  - § 28:1 Related Provisions
- 28.1 Convention on the Rights of Persons with Disabilities
  - § 28.1:1 Commentary and Related Provisions
- 29 Regulations
  - § 29:1 Commentary and Related Provisions

#### REMUNERATION

- 30 Salaries and remuneration
  - § 30:1 Commentary and Related Provisions

# **OFFICERS AND STAFF**

- 31 Chief Commissioner
  - § 31:1 Commentary and Related Provisions
- 32 Staff

#### Table of Contents

- § 32:1 Commentary and Related Provisions
- 32.1 Accessibility unit
  - § 32.1:1 Commentary and Related Provisions
- 32.2 Pay Equity Unit
  - § 32.2:1 Commentary
- 33 Compliance with security requirements
  - § 33:1 Commentary and Related Provisions
- 34 Head office
  - § 34:1 Related Provisions
- 35 Majority is a decision of the Commission
  - § 35:1 Related Provisions
- 36 Establishment of divisions
  - § 36:1 Related Provisions
- 36.1 Pay Equity Division
  - § 36.1:1 Commentary
- 37 By-laws
  - § 37:1 Commentary and Related Provisions
- 38 Superannuation, etc.
  - § 38:1 Related Provisions

#### ACCESSIBILITY COMMISSIONER

- 38.1 Powers, duties and functions
- 38.2 Absence or incapacity of Accessibility Commissioner

# PAY EQUITY COMMISSIONER

- 38.3 Powers, duties and functions
- 38.4 Absence or incapacity of Pay Equity Commissioner
  - § 38.4:1 Commentary

# PART III DISCRIMINATORY PRACTICES AND GENERAL PROVISIONS (SS. 39–65)

- 39 Definition of "discriminatory practice"
  - § 39:1 Commentary and Related Provisions
- 40 Complaints
  - § 40:1 Commentary and Related Provisions
  - § 40:2 Case Law—Section 40—General
  - § 40:3 —Section 40(1) & 40(2)
  - § 40:4 —Section 40(4)
  - § 40:5 —Section 40(5)
- 40.01 Disclosure of personal information
  - § 40.01:1 Related Provisions
- 40.1 Definitions

- § 40.1:1 Case Law—Section 40.1(2)
- § 40.1:2 —Section 40.1(2)(b)
- § 40.1:3 Related Provisions
- 40.2 Non-application of sections 7, 10 and 11
  - § 40.2:1 Commentary
- 41 Commission to deal with complaint
  - § 41:1 Commentary
  - § 41:2 Case Law—General
  - § 41:3 —Section 41(1)
  - § 41:4 —Section 41(1)(a)—grievance or review procedures exhausted
  - § 41:5 —Section 41(1)(b)—better dealt with under another act
  - § 41:6 —Section 41(1)(c)—lack of jurisdiction
  - $\ 41:7$  —Section 41(1)(d)—trivial, frivolous, vexatious or made in bad faith
  - § 41:8 —Section 41(1)(e)—untimely
- 42 Notice
  - § 42:1 Commentary
  - § 42:2 Case Law
  - § 42:3 —Section 42(2)

#### **INVESTIGATION**

- 43 Designation of investigator
  - § 43:1 Commentary and Related Provisions
  - § 43:2 Case Law
- 44 Report
  - § 44:1 Commentary and Related Provisions
  - § 44:2 Case Law—Section 44
  - § 44:3 —Section 44(1)
  - § 44:4 —Section 44(2)
  - § 44:5 —Section 44(3)—General
  - § 44:6 —Section 44(3)(a)
  - § 44:7 —Section 44(3)(b)
  - § 44:8 —Section 44(3)(b)(i)
  - § 44:9 —Section 44(4)
- 45 Definition of "Review Agency"
  - § 45:1 Commentary
  - § 45:2 Case Law
- 46 Report
  - § 46:1 Commentary and Related Provisions

#### **CONCILIATOR**

- 47 Appointment of conciliator
  - § 47:1 Commentary and Related Provisions
  - § 47:2 Case Law

#### SETTLEMENT

- 48 Referral of a settlement to Commission
  - § 48:1 Commentary and Related Provisions
  - § 48:2 Case Law
  - § 48:3 —Section 48(3)
- 48.1 Establishment of Tribunal
  - § 48.1:1 Commentary
  - § 48.1:2 Case Law
- 48.2 Terms of office
  - § 48.2:1 Commentary and Related Provisions
  - § 48.2:2 Case Law
- 48.3 Remedial and disciplinary measures
  - § 48.3:1 Commentary and Related Provisions
- 48.4 Status of members
  - § 48.4:1 Commentary and Related Provisions
- 48.5 Residence
  - § 48.5:1 Related Provisions
- 48.6 Remuneration
  - § 48.6:1 Commentary and Related Provisions
- 48.7 Head office
  - § 48.7:1 Related Provisions
- 48.8 [Repealed 2014, c. 20, s. 415.]
  - § 48.8:1 Commentary and Related Provisions
  - § 48.8:2 Case Law
- 48.9 Conduct of proceedings
  - § 48.9:1 Commentary and Related Provisions
  - § 48.9:2 Case Law—Section 48.9(1)
  - § 48.9:3 —Section 48.9(1)—Conduct of Proceeding
  - § 48.9:4 —Section 48.9(2)
  - § 48.9:5 —Section 48.9(1)—Amendment
  - § 48.9:6 —Section 48.9(1)—Courtesy of the parties/expeditious fashion
  - § 48.9:7 —Section 48.9(1)—Adding parties
  - § 48.9:8 —Section 48.9(2)(b)—Tribunal Rules of Procedure: Addition of Parties and Interested Persons
  - § 48.9:9 —Section 48.9(2)(c)—summoning witnesses
  - § 48.9:10 —Section 48.9(2)(d)—Production and Service of Documents

- § 48.9:11 —Section 48.9(2)(e)—Discovery Proceedings
- $\$  48.9:12 —Section 48.9(2)(g)—Introduction of Evidence

# INQUIRIES INTO COMPLAINTS

- 49 Request for inquiry
  - § 49:1 Commentary and Related Provisions
  - § 49:2 Case Law
  - § 49:3 —Section 49(1)
- 50 Conduct of inquiry
  - § 50:1 Commentary and Related Provisions
  - § 50:2 Case Law—Section 50
  - § 50:3 —Section 50—Conduct of the Hearing
  - § 50:4 —Section 50(1)—Stay
  - § 50:5 —Section 50(1)—General
  - § 50:6 —Section 50(1)—Conduct of inquiry (see also, section 48.9(1))
  - § 50:7 —Section 50(1)—Disclosure
  - § 50:8 —Section 50(1)—Adding an Interested Party
  - § 50:9 —Section 50(2)—General
  - § 50:10 —Section 50(2)—Power to determine questions of law or fact
  - § 50:11 —Lack of prima facie case/non-suit/election
  - § 50:12 —Delay
  - § 50:13 —Other matters going to jurisdiction
  - § 50:14 —Section 50(3)—General
  - § 50:15 —Section 50(3)—Additional powers
  - § 50:16 —Section 50(3)—Testimony of Witnesses
  - § 50:17 —Section 50(3)(a)
  - § 50:18 —Section 50(3)(c)
  - § 50:19 —Section 50(3)(e)
  - § 50:20 —Section 50(4)—Limitation in relation to evidence
  - § 50:21 —Section 50(4)—Privilege
  - § 50:22 —Section 50(6)
- 51 Duty of Commission on appearing
  - § 51:1 Commentary and Related Provisions
  - § 51:2 Case Law
- 52 Hearing in public subject to confidentiality order
  - § 52:1 Commentary and Related Provisions
  - § 52:2 Case Law—Section 52
  - § 52:3 —Section 52(1)
  - § 52:4 —Section 52(1)(b)
  - § 52:5 —Section 52(1)(c)

#### Table of Contents

53 Complaint dismissed Commentary and Related Provisions § 53:2 Case Law—Section 53—General —Section 53(1)—Dismissal of the Complaint § 53:3 § 53:4 -Section 53(2)—General § 53:5 —Section 53(2)(a)—Cease and desist/orders to redress and/or prevent reoccurrence § 53:6 —Section 53(2)(b)—Rights, opportunities or privileges denied § 53:7 —Section 53(2)(c)—Compensation for lost wages § 53:8 —Section 53(2)(d)—Compensation for expenses or additional costs incurred —Section 53(2)(e)—Compensation for pain and suffering § 53:10 —Section 53(3)—Special compensation for wilful or reckless conduct § 53:11 —Section 53(3)(d) § 53:12 —Section 53(4)—Interest Limitation § 54:1 Commentary and Related Provisions 54.1 Definitions § 54.1:1 Commentary and Related Provisions [Repealed 1998, c. 9, s. 29.] 56 [Repealed 1998, c. 9, s. 29.] Enforcement of order § 57:1 Commentary and Related Provisions § 57:2 Case Law Application respecting disclosure of information 58 § 58:1 Related Provisions Intimidation or discrimination § 59:1 Commentary and Related Provisions § 59:2 Case Law

# OFFENCES AND PUNISHMENT

- 60 Offence
  - § 60:1 Commentary and Related Provisions
  - § 60:2 Case Law

# **REPORTS**

- 61 Annual report of Commission § 61:1 Commentary and Related Provisions
- MINISTER RESPONSIBLE
- 61.1 Minister of Justice

# APPLICATION

- 62 Limitation
  - § 62:1 Commentary and Related Provisions
  - § 62:2 Case Law
- 63 Application in the territories
  - § 63:1 Commentary and Related Provisions
  - § 63:2 Case Law
- 64 Canadian Forces and Royal Canadian Mounted Police
  - § 64:1 Related Provisions
- 65 Acts of employees, etc
  - § 65:1 Commentary and Related Provisions
  - § 65:2 Case Law—General
  - § 65:3 —Section 65(1)—Liability
  - § 65:4 —Section 65(2)—Due diligence

#### PART IV APPLICATION (SS. 66, 67)

- 66 Binding on Her Majesty
  - § 66:1 Commentary and Related Provisions
- 67 [Repealed 2008, c. 30, s. 1.]
  - § 67:1 Commentary
  - § 67:2 Case Law
  - § 67:3 —Transitional Provisions

# ANNOTATED CANADIAN HUMAN RIGHTS ACT—APPENDICES

APPENDIX A CANADIAN HUMAN RIGHTS TRIBUNAL RULES OF PROCEDURE, 2021

APPENDIX B CANADIAN HUMAN RIGHTS TRIBUNAL RULES OF PROCEDURE (PROCEEDINGS PRIOR TO JULY 11, 2021)

APPENDIX C A GUIDE TO UNDERSTANDING THE CANADIAN HUMAN RIGHTS TRIBUNAL (ON OR AFTER JULY 11, 2021)

APPENDIX D A GUIDE TO UNDERSTANDING THE CANADIAN HUMAN RIGHTS TRIBUNAL (PROCEEDINGS PRIOR TO JULY 11, 2021)

APPENDIX E POLICY ON ACCESS TO THE CANADIAN HUMAN RIGHTS TRIBUNAL OFFICIAL RECORD

APPENDIX F PRACTICE DIRECTION: REQUEST TO PARTICIPATE AS AN INTERESTED PERSON

APPENDIX G PRACTICE DIRECTION: HOW TO SUMMONS A WITNESS

APPENDIX H PRACTICE DIRECTION: REQUESTING AN ADJOURNMENT OR A STAY

APPENDIX I PRACTICE DIRECTION- REQUESTS TO WITHDRAW A COMPLAINT

APPENDIX J CHAIRPERSON'S MESSAGE: IN-PERSON AND VIRTUAL HEARINGS

APPENDIX K GUIDELINES FOR VIRTUAL PROCEEDINGS

APPENDIX L CANADIAN HUMAN RIGHTS TRIBUNAL MEDIATION—ADJUDICATION

APPENDIX M CANADIAN HUMAN RIGHTS TRIBUNAL ("CHRT") MEDIATION AGREEMENT

APPENDIX N CANADIAN HUMAN RIGHTS COMMISSION, BY-LAW NO. 3, SOR/78-223

APPENDIX O EQUAL WAGES GUIDELINES, 1986, SOR/86-1082

APPENDIX P HUMAN RIGHTS TRIBUNAL APPEAL REGULATIONS, SOR/80-394

APPENDIX Q CANADIAN HUMAN RIGHTS BENEFIT REGULATIONS, SOR/80-68

APPENDIX R AGE GUIDELINES, SI/78-165

APPENDIX S EMPLOYMENT EQUITY ACT, S.C. 1995, C. 44

APPENDIX T GUIDE TO THE OPERATIONS OF THE EMPLOYMENT EQUITY REVIEW TRIBUNAL

# APPENDIX U PAY EQUITY ACT

APPENDIX V CANADIAN HUMAN RIGHTS TRIBUNAL RULES RESPECTING PAY EQUITY

APPENDIX W ACCESSIBLE CANADA ACT, S.C. 2019, C. 10

APPENDIX X ACCESSIBLE CANADA REGULATIONS

**Table of Cases** 

**Index**