



# Human Rights Prohibited Grounds

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# Human Rights

## Employment

### Basic Prohibition & Prohibited Grounds

#### Alberta

Updated: Mar 21, 2020

#### [Alberta Human Rights Act - s. 7](#)

#### Warning:

The Alberta Human Rights Commission has stated that:

- the ground of disability is engaged in relation to COVID-19 since it covers medical conditions or perceived medical conditions that carry significant social stigma;
- depending on the circumstances, the grounds of place of origin, ethnic origin and race may trigger human rights obligations under the Code in respect of COVID-19.

Employers and housing and service providers should ensure any restrictions are consistent with the most recent advice from medical and Public Health officials, and are justified for health and safety reasons. See the Alberta Human Rights Commission's [Statement on COVID-19 and Human Rights](#).

An employer **cannot refuse to employ or discriminate against** a person with respect to employment or a term or condition of employment because of:

- race;
- religious beliefs;
- colour;
- gender;
- gender identity;
- gender expression;
- physical disability;
- mental disability;
- age;
- ancestry;
- place of origin;
- marital status;
- source of income;
- family status; or
- sexual orientation.

#### British Columbia

Updated: Nov 26, 2021

#### [Human Rights Code - s. 13, 2](#)

#### Warning:

**IMPORTANT:** Discrimination on the basis of sex has been interpreted to include sexual harassment. You should contact a lawyer for further advice.

The BC Human Rights Commission also takes the position that COVID-19 is a form of disability and therefore discrimination on the basis of COVID-19 is prohibited. See the [BC Human Rights Commission's statement on COVID-19](#).

**You cannot:**

- refuse to employ or continue to employ a person; or
- discriminate against a person in relation to employment

**because of:**

- indigenous identity;
- race;
- colour;
- ancestry;
- place of origin;
- political belief;
- religion;
- marital status;
- family status;
- physical or mental disability;
- sex;
- sexual orientation;
- gender identity or expression;
- age (19 or older);
- a criminal or summary conviction that is unrelated to the employment.

This includes **employment agencies**, which cannot refuse to refer a person for employment.

**Federal**

Updated: Jun 10, 2021

[Canadian Human Rights Act - s. 3, 7, 25](#)

**You cannot discriminate because of:**

- race;
- national or ethnic origin;
- colour;
- religion;
- age;
- sex (including related to pregnancy and child birth);
- sexual orientation;
- gender identity or expression;
- marital status;
- family status;
- genetic characteristics (including refusal to undergo a genetic test or to disclose the results of a genetic test);
- disability; or

- conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered.

## Manitoba

Updated: Mar 21, 2020

### [The Human Rights Code - s. 14\(5\), 14\(1\), 14\(11\), 9](#)

You **cannot discriminate** with respect to any aspect of an employment or occupation, including the opportunity to become employed or to continue to be employed, because of:

- ancestry, including colour and perceived race;
- nationality or national origin;
- ethnic background or origin;
- religion or creed, or religious belief, religious association or religious activity;
- age;
- sex, including sex-determined characteristics or circumstances, such as pregnancy, the possibility of pregnancy, or circumstances related to pregnancy;
- gender identity;
- sexual orientation;
- marital or family status;
- source of income;
- political belief, political association or political activity;
- physical or mental disability or related characteristics or circumstances, including reliance on a service animal, a wheelchair, or any other remedial appliance or device; or
- social disadvantage (only if the discrimination is based on a negative bias or stereotype related to that social disadvantage).

This applies to employment agencies as well.

## New Brunswick

Updated: Mar 21, 2020

### [Human Rights Act - s. 4\(1\)](#)

#### **Warning:**

COVID-19 is considered a physical disability for the purposes of the Act.

The Human Rights Commission has also stated that it is a violation of the Act to make any assumptions about a person's exposure to the virus based on their race or national origin. [See the guidance and FAQs provided by the Commission.](#)

You **cannot discriminate** with respect to employment, or a term or condition of employment, because of:

- race;
- colour;
- national origin;
- ancestry;
- place of origin;
- creed or religion;

- age;
- physical disability;
- mental disability;
- marital status;
- family status;
- sex;
- sexual orientation;
- gender identity or expression;
- social condition; or
- political belief or activity.

## Newfoundland and Labrador

Updated: Mar 21, 2020

[Human Rights Act, 2010 - s. 14\(1\), 14\(3\), 15\(1\), 9\(2\)](#)

### Warning:

The Newfoundland and Labrador Human Rights Commission has stated that you cannot discriminate because of COVID-19 and that this falls within the prohibited grounds of race, colour, nationality, ethnic or social origin and disability.

See the Newfoundland and Labrador Human Rights Commission's [Statement on COVID-19 and Human Rights - Best Practices](#).

An employer or a person acting on behalf of an employer **cannot discriminate** against a person because of:

- race;
- colour;
- nationality;
- ethnic origin;
- social origin;
- religious creed;
- religion;
- age;
- disability;
- disfigurement;
- sex (including because a woman is or may become pregnant);
- sexual orientation;
- gender identity;
- gender expression;
- marital status;
- family status;
- source of income;
- political opinion;
- a conviction for an offence that is unrelated to the employment of the person; or
- the person's pay being subject to attachment or seizure, unless there is a good faith occupational requirement with respect to persons whose duties include collecting, receiving or depositing money belonging to the employer.

This includes:

- discrimination with respect to a term or condition of employment; and

- discrimination by an employment agency (and an employer cannot use an employment agency that discriminates)

### The following industries/occupations are exempt from this provision:

#### Religious Organizations, Not-For-Profit

[Human Rights Act, 2010 - s. 14\(8\)](#)

This exemption applies to:

- an employer that is an exclusively religious, fraternal or sororal organization that is not operated for private profit, where it is a reasonable and genuine qualification because of the nature of the employment; or
- an employer who employs a person to provide personal services to them or to a member of their family ("personal services" means work of a domestic, custodial, companionship, personal care, child care, or educational nature, or other work within the private residence that involves frequent contact or communication with persons who live in the residence).

### The following industries/occupations have special rules related to this provision

#### Judicial or Elected Office Holder

[Human Rights Act, 2010 - s. 14\(9\)](#)

A judge may be required to retire on reaching a specified age under the *Provincial Court Act, 1991*.

## Nova Scotia

Updated: Mar 21, 2020

[Human Rights Act - s. 5\(1\), 8\(1\)](#)

You cannot discriminate with respect to **employment or volunteer public service** because of:

- age;
- race;
- colour;
- religion;
- creed;
- sex;
- sexual orientation;
- gender identity;
- gender expression;
- physical disability or mental disability;
- an irrational fear of contracting an illness or disease;
- ethnic, national or aboriginal origin;
- family status;
- marital status;
- source of income; or
- political belief, affiliation or activity.

An **employment agency** cannot:

- discriminate against a person because of a prohibited ground; and
- they cannot accept an employment inquiry from an employer or a prospective employee that, directly or indirectly:

- expresses a limitation, specification or preference; or
- invites information as to a prohibited ground.

## Ontario

Updated: Mar 21, 2020

### [Human Rights Code - s. 5, 10\(1\), 10\(2\)](#)

#### Warning:

The Ontario Human Rights Commission has stated that:

- the ground of disability is engaged in relation to COVID-19 since it covers medical conditions or perceived medical conditions that carry significant social stigma;
- depending on the circumstances, the grounds of place of origin, ethnic origin and race may trigger human rights obligations under the Code in respect of COVID-19.

Employers and housing and service providers should ensure any restrictions are consistent with the most recent advice from medical and Public Health officials, and are justified for health and safety reasons. See the Ontario Human Rights Commission's [Policy Statement on the COVID-19 Pandemic](#).

You cannot discriminate with respect to employment because of:

- race;
- ancestry;
- place of origin;
- colour;
- ethnic origin;
- citizenship;
- creed;
- sex (including because a woman is or could become pregnant);
- sexual orientation;
- gender identity;
- gender expression;
- age (18 years or more);
- record of offences;
- marital status;
- family status (being in a parent and child relationship); or
- disability.

"Record of offences" means discrimination based on a conviction for:

- an offence for which a pardon has been granted and has not been revoked; or
- any provincial offence.

**The following industries/occupations are exempt from this provision:**

#### Judicial or Elected Office Holder

[Human Rights Code - s. 24\(1\)](#)

This exemption applies to:



- a judge or master is required to retire or cease to continue in office on reaching a specified age;
- a case management master is required to retire or their the term of reappointment expires on reaching a specified age;
- a justice of the peace is required to retire on reaching a specified age.

### The following industries/occupations have special rules related to this provision

#### Education

##### [Human Rights Code - s. 19](#)

This Act does not adversely affect the rights or privileges of separate schools boards or their supporters under the *Constitution Act, 1867* and the *Education Act*. This Act does not apply to affect the application of the *Education Act* with respect to the duties of teachers.

#### Prince Edward Island

Updated: Mar 21, 2020

##### [Human Rights Act - s. 6, 1, 10](#)

You **cannot discriminate** with respect to **employment or volunteer public service** because of:

- age;
- colour;
- creed;
- disability;
- ethnic or national origin;
- family status;
- gender expression;
- gender identity;
- marital status;
- political belief;
- race;
- religion;
- sex;
- sexual orientation;
- source of income; or
- a criminal or summary conviction offence that is not related to the employment or intended employment

This includes **employment agencies**, which must not discriminate against any individual.

#### Quebec

Updated: Mar 21, 2020

##### [Charter of human rights and freedom - s. 10, 18, 18.1, 18.2, 20, 16](#)

You **cannot discriminate** against another person with respect to employment based on:

- race;
- colour;
- sex;
- gender identity or expression;

- pregnancy;
- sexual orientation;
- civil status;
- age (except as provided by law);
- religion;
- political convictions;
- language;
- ethnic or national origin;
- social condition;
- handicap or the use of any means to palliate a handicap (assistive device)

In certain aspects of employment, a person must not discriminate against a person based on a criminal offence.

## Saskatchewan

Updated: Mar 21, 2020

[The Saskatchewan Human Rights Code, 2018 - s. 9, 16\(1\), 16\(2\), 16\(3\), 16\(4\), 2\(1\)](#)

Employers **cannot**:

- refuse to employ or refuse to continue to employ;
- discriminate against a person in relation to employment; or
- use an employment agency that discriminates;

**based on:**

- religion;
- creed;
- marital status;
- family status;
- sex (including discrimination due to pregnancy or pregnancy-related illnesses);
- sexual orientation;
- disability;
- age;
- colour;
- ancestry;
- nationality;
- place of origin;
- race or perceived race;
- receipt of public assistance; or
- gender identity

**Employment agencies** cannot discriminate when acting on applications for the agency's services or referring a person for employment.

No **employee** shall discriminate against another employee.

Everyone has the right to engage in and carry on any occupation, business or enterprise without discrimination.