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## **Unofficial Office Consolidation – Human Rights Act Regulations O.I.C. 1988/170 and 2009/219**

### **Title**

1. These regulations may be cited as the Human Rights Regulations.

### **Definitions**

2. In these regulations

“complainant” means the person who complained to the commission that there had been a contravention of the Act against him or her;

“respondent” means the person who is alleged to have contravened the Act;

“Act” means the Human Rights Act;

“Director” means the Director of Human Rights appointed under section 19 of the Act.

### **Recording complaints**

3. The Commission shall

(a) maintain records that distinguish inquiries about human rights matters from complaints about alleged contraventions of the Act;

(b) record and deal with complaints in a written form that shows what contravention of the Act is alleged and what remedy is claimed for the contravention.

## **Investigation of complaints**

4. (1) The investigation of a complaint by the Commission shall be conducted or directed on its behalf by the Director.

(2) If the Director is satisfied that a complaint requires investigation under subsection 20(1) of the Act, the Director shall forthwith notify the respondent

- (a) that an investigation is being started;
- (b) about the subject matter of the complaint;
- (c) about any subsequent change in the subject matter of the complaint;
- (d) of any withdrawal or abandonment of the complaint; and
- (e) when the investigation has been completed.

(3) Where the Director believes on reasonable grounds that giving the notice required by subsection (2) would likely prejudice the conduct of the investigation, the Director may delay giving the notice until the investigation has reached a stage where prejudice will not likely occur.

## **Disposition of complaint by Director**

5(1) The Director may decide to suspend or stop an investigation if the Director believes on reasonable grounds that the Commission is no longer required to investigate the complaint under subsection 20(1) of the Act.

(2) If the Director decides to suspend or stop an investigation, the Director shall give the complainant written notice of the decision setting out the reasons why the Director believes that the Commission is no longer required to investigate the complaint.

(3) The complainant may, within 30 days of receiving written notice of the Director's decision to suspend or stop an investigation, ask the Commission to review the decision by delivering a written request to the Commission.

(4) The Commission shall give the complainant at least 30 days notice of when it will review the Director's decision to suspend or stop the investigation.

(5) In reviewing the Director's decision, the Commission shall consider

- (a) the Director's written notice of the decision given to the complainant under subsection (2); and
  - (b) any written or oral submissions by or on behalf of the complainant pertaining to the Director's decision to suspend or stop the investigation.
- (6) Upon reviewing the Director's decision, the Commission shall
- (a) confirm the Director's decision to suspend or stop the investigation if the Commission is satisfied on reasonable grounds that the Commission is no longer required to investigate the complaint under subsection 20(1) of the Act; or
  - (b) instruct the Director to continue with the investigation if the Commission is satisfied that the Commission is required to investigate the complaint under subsection 20(1) of the Act.

### **Settlement of complaints**

6(1) Where the Commission asks the Director to try to settle the complaint on terms agreed to by the parties, the Director's role is to mediate the dispute between the complainant and respondent with a view to achieving a settlement which is fair and consistent with the *Human Rights Act* and other relevant rules of law.

(2) The Director may prepare the agreement for settlement and may make recommendations to the complainant and the respondent about the merits of proposed terms of settlement.

(3) Proposals for settlement and statement made by or on behalf of the complainant or respondent in the course of efforts to settle the complaint are privileged and shall not be admitted in evidence in any subsequent adjudication under this Act.

### **Requests for board of adjudication**

7(1) The Director of Human Rights, the complainant, or the respondent may request the Commission to ask a board of adjudication to decide the complaint.

(2) The decision to ask a board of adjudication to decide the complaint may be made only by the Commission and shall not be made until after the Commission has

(a) given the complainant and the respondent at least 30 days notice of when the Commission will consider whether to ask a board of adjudication to decide the complaint, and

(b) considered any written or oral submission by or on behalf of the complainant or the respondent; and

(c) if the complaint has been investigated, considered the Director's report about the investigation.

(3) If the Commission decides to ask a board of adjudication to decide the complaint, the Commission shall forthwith

(a) formulate the text of the complaint to be referred for adjudication and deliver a copy to the complainant, the respondent, and the Chief Adjudicator, and

(b) ask the Chief Adjudicator to establish a board of adjudication to decide the complaint.

**8(1)** Having received from the Commission a request that a complaint be decided by a board of adjudication, the Chief Adjudicator shall forthwith establish a board of adjudication to decide the complaint and shall give the Commission, the complainant, and the respondent at least 30 days notice of when the board will hear the complaint.

(2) The text of the complaint to be decided may be changed at any stage of the proceeding, but only with the permission of the Chief Adjudicator or, after the hearing begins, the board of adjudication, and only in circumstances or upon conditions which give reasonable assurance that no party will be prejudiced by the change.

### **Adjournment of hearing**

**9(1)** The Chief Adjudicator may change the date previously established for beginning a hearing, but the time between the making of the change and the new date for the hearing to begin shall be at least 30 days unless the commission, complainant, respondent, and any intervenor consent to a shorter time.

(2) After the hearing has begun the board of adjudication may in its discretion adjourn the hearing as required.

(3) No hearing may be adjourned without first giving each party an opportunity to make representation about the proposed adjournment.

### **Order for presenting case to board of adjudication**

**10** The normal procedure shall be that evidence shall be presented by the Commission, then by the complainant, and then by the respondent, and argument

shall be presented in the same order as the evidence but the board of adjudication may modify that order where it seems appropriate for the effective conduct of the hearing.

### **Admissible evidence**

**11(1)** In addition to receiving evidence in accordance with the *Evidence Act*, the board of adjudication may receive or view any relevant evidence whether under oath or otherwise and in respect of whether that evidence would be admissible in proceedings in court, and the board may act according to its view of the reliability and import of the evidence.

(2) The board of adjudication may receive evidence of similar acts for the purpose of providing a pattern of conduct or a practice.

(3) Where a party has introduced documentary evidence, the board of adjudication may require the attendance of the author of the document for the purposes of cross-examination on the document, but the costs occasioned by the attendance of the author shall be borne by the party who requests the author's attendance unless the board is satisfied that it would have been misled by the document in some material respect if the cross-examination had not occurred.

### **Hearing in public**

**12** Hearings before boards of adjudication shall be open to the public unless the board orders that the public be excluded for part or all of the hearing, but the board may make such an order only if the presence of members of the public would prejudice the conduct of the hearing.

### **Recording of evidence**

**13** All proceedings before a board of adjudication shall be recorded verbatim.

### **Decision of board of adjudication**

**14** The board of adjudication shall within 30 days of the completion of the hearing give written reasons for its disposition of a complaint.

### **Costs**

**15** If the board of adjudication awards costs, those costs

- (a) shall not exceed actual costs incurred by the party to whom the costs are awarded, and

(b) shall be assessed by the board as party and party costs in the same manner and on the same basis as if the hearing has been a proceeding in the Supreme Court.

## **Intervenors**

**16(1)** The Chief Adjudicator or, after the adjudication hearing has begun, the board of adjudication may allow a person to intervene and take part in the hearing in the way and on the conditions determined by the board where

(a) the decision about the complaint will affect the person, or the class person represents, in a substantial way differently from the way it will affect the public at large, and

(b) the person can make a contribution which will assist the board in fairly and effectively resolving the issues brought before it by the Commission, the complainant, and the respondent.

(2) A person shall not be allowed to intervene where

(a) the dominant characteristic of their intervention would be to duplicate or support the evidence and submissions of others who are already parties, or

(b) the intervention would introduce new issues that need not be dealt with in order to decide the complaint.

(3) An intervenor may not claim nor be awarded any remedy or costs.

(4) Payments by the intervenor of costs occasioned by the intervention may be made a condition on which the intervention is allowed.

## **Extending time limits**

**17(1)** The Commission may extend any time limit which is established by these regulations and pertains to matters within the Commission's jurisdiction.

(2) The Chief Adjudicator or a board of adjudication may extend any time limit which is established by these regulations and pertain to matters within the jurisdiction of the Chief Adjudicator or of the board of adjudication, as the case may be.

## **Giving notice**

**18** A notice may be given

- (a) by delivering it in writing to the person;
- (b) by certified or registered mail addressed to the person at their usual or latest known address;
- (c) by any other methods authorized in advance or ratified after the event by the Chief Adjudicator or, after the adjudication hearing has begun, by the board of adjudication.

### **Authentication of documents**

**19(1)** A document that the commission is required or authorized to issue or execute shall be deemed to be issued or executed by the Commission if it is signed by the chairperson of the commission or another member of the commission authorized by the chairperson to do so.

(2) Any order, process, or other document that the board of adjudication is required or authorized to issue shall be deemed to be issued but he board if it is signed by a member of that board.

### **Non-compliance with regulations**

**20** A failure to comply with these regulations shall be treated as an irregularity and does not nullify a proceeding, but the board of adjudication may give any procedural direction it thinks appropriate to assure that neither the conduct of the hearing not any party or intervenor is prejudiced by the failure.

### **Counsel for board of adjudication**

**21** To the extent that money is appropriate by the Legislature for the purpose, the board of adjudication may retain counsel or other advisers to assist the board in the performance of its duties.

### **Remuneration of adjudicators**

**22(1)** Members of the board of adjudication shall be paid an honorarium of \$400 for each day of hearing or part thereof and an honorarium of \$100 for each day of training or part thereof.

(2) In addition to the honorarium that is payable under subsection (1), the Chief Adjudicator shall be paid an annual honorarium of \$4,000 in quarterly installments of \$1000.

(3) Adjudicators shall be paid transportation, accommodation and living expenses incurred in connection with the performance of their duties away from their place of residence at rates which conform to the payment of such expenses for members of the public service of the Yukon.

### **Absence of Chief Adjudicator**

**23** When the Chief Adjudicator is unable to act, the person designated for the purpose by the Chief Adjudicator may exercise the powers of the Chief Adjudicator.