

# BC HUMAN RIGHTS CODE AMENDMENTS RE-ESTABLISH THE HUMAN RIGHTS COMMISSION

Posted on November 28, 2018

**Categories:** [Insights](#), [Publications](#)

On November 1, 2018, the *Human Rights Code Amendment Act 2018* was introduced by the BC government. The proposed amendments are not yet in force but this is expected to occur in the near future.

The amendments to the BC Human Rights Code include the establishment of a Human Rights Commission and the appointment of an independent Human Rights Commissioner who will report directly to the British Columbia legislature.

Presently, British Columbia is the only Canadian province without a Human Rights Commission, the previous commission having been dismantled in 2002.

The Human Rights Commissioner will not have an adjudicative role, but rather will be responsible for proactively promoting and advocating for human rights, including:

- identifying and promoting the elimination of, discriminatory practices, policies and programs;
- developing resources, policies and guidelines to prevent and eliminate discriminatory practices, policies and programs;
- publishing reports, making recommendations or using other means the commissioner considers appropriate to prevent or eliminate discriminatory practices, policies and programs;
- developing and delivering public information and education about human rights;
- undertaking, directing and supporting research respecting human rights;
- examining the human rights implications of any policy, program or legislation, and making recommendations respecting any policy, program or legislation that the commissioner considers may be inconsistent with this Code;
- consulting and cooperating with individuals and organizations in order to promote and protect human rights;
- establishing working groups for special assignments respecting human rights;
- promoting compliance with international human rights obligations;

The existing BC Human Rights Tribunal (the “Tribunal”) will be separate from the Human Rights Commission.

The Tribunal will continue to impartially adjudicate complaints of discrimination under the *BC Human Rights Code*.

There are two aspects of the proposed amendments that may be of particular significance to employers in British Columbia.

First, the time limit for filing a complaint of discrimination to the Tribunal will increase from six months to 12 months from the last alleged instance of contravention of the *BC Human Rights Code*.

Second, the Human Rights Commissioner will have a significant role in the complaint process before the Tribunal. Although the Human Rights Commissioner will not be able to file a complaint alleging discrimination, the Commissioner will have jurisdiction to intervene in complaints involving systemic discrimination that are being considered by the Tribunal. Further, the Commissioner will have jurisdiction to “assist a person or group of persons with any aspect of a complaint” that has been filed before the Tribunal.

The proposed amendments provide a substantial role to the Commissioner to intervene in the complaint process or to assist persons in pursuing a complaint to the Tribunal. This represents a significant departure from the current process in which complainants, for the most part, must rely on their own resources in pursuing a matter to the Tribunal.

Upon passing of the legislation, an all-party committee will be formed to recommend a commissioner to be put forward for approval by the legislative assembly.

by N. David McInnes and Hilary D. Henley

a cautionary note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

© McMillan LLP 2018