

[Français](#)**Discriminatory Business Practices Act**

R.S.O. 1990, CHAPTER D.12

**Consolidation Period:** From December 15, 2009 to the [e-Laws currency date](#).

Last amendment: 2009, c. 33, Sched. 10, s. 5.

**Definitions****1.** In this Act,

“designated information” means information as to the race, creed, colour, nationality, ancestry, place of origin, sex or geographical location of a person; (“renseignements désignés”)

“Director” means the person designated as the Director under the *Ministry of Consumer and Business Services Act*; (“directeur”)

“investigator” means an investigator appointed under subsection 8 (1); (“enquêteur”)

“Minister” means the Minister of Consumer and Business Services; (“ministre”)

“person” includes a partnership, sole proprietorship, unincorporated association and governmental agency; (“personne”)

“person connected”, when used in relation to another person, means an employee, agent, partner or associate of the other person and, where the other person is a corporation, includes a director, officer, shareholder or member of the corporation; (“personne qui a des liens”)

“regulations” means the regulations made under this Act; (“règlements”)

“Tribunal” means the Licence Appeal Tribunal. (“Tribunal”) R.S.O. 1990, c. D.12, s. 1; 1999, c. 12, Sched. G, s. 22 (1); 2001, c. 9, Sched. D, s. 13; 2006, c. 34, s. 11 (1); 2009, c. 33, Sched. 10, s. 5.

**Purpose and intent of Act**

**2.** The purpose and intent of this Act is to prevent discrimination in Ontario on the ground of race, creed, colour, nationality, ancestry, place of origin, sex or geographical location of persons employed in or engaging in business. R.S.O. 1990, c. D.12, s. 2.

**Where Act does not apply**

**3.** This Act does not apply to:

1. The withholding of services or employment in the course of a lawful strike, lock-out or other labour dispute.

2. A discriminatory business practice engaged in in accordance with a policy of the Government of Canada directed toward trade with a country other than Canada or persons in a country other than Canada or of the Government of Ontario directed toward persons in Provinces or Territories other than Ontario. R.S.O. 1990, c. D.12, s. 3.

### **Discriminatory business practices**

**4. (1)** For the purposes of this Act, the following shall be deemed to be discriminatory business practices:

1. A refusal to engage in business with a second person, where the refusal,
  - i. is on account of an attribute,
    - A. of the second person, or
    - B. of a third person with whom the second person conducts, has conducted or may conduct business; and
  - ii. is a condition of the engaging in business of the person making the refusal and another person.
2. A refusal or failure to employ, appoint or promote a second person or a dismissal or suspension of a second person from employment, where the refusal, failure, dismissal or suspension,
  - i. is on account of an attribute,
    - A. of the second person, or
    - B. of a third person with whom the second person conducts, has conducted or may conduct business; and
  - ii. is a condition of the engaging in business of the person making the refusal, failure, suspension or dismissal and another person.
3. Entering into a contract that includes a provision that one of the parties to the contract,
  - i. will refuse to engage in business with a second person; or
  - ii. will refuse or fail to employ or promote or will dismiss or suspend from employment a second person,on account of an attribute of the second person or of a third person with whom the second person conducts, has conducted or may conduct business. R.S.O. 1990, c. D.12, s. 4 (1).

### **Definitions**

**(2)** In subsection (1),

“attribute”, with reference to a person, means the race, creed, colour, nationality, ancestry, place of origin, sex or geographical location of the person, and includes the race, creed, colour, nationality, ancestry, place of origin, sex or geographical location of a person connected with the person or nationals of a country with the government of which the person conducts, has conducted or may conduct business; (“attribut”)

“engaging in business” includes selling goods or services to or buying goods or services from, and “engage in business” has a corresponding meaning; (“se livrer au commerce”)

“refusal” includes agreement to refuse. (“refus”) R.S.O. 1990, c. D.12, s. 4 (2).

**Discriminatory business practices prohibited**

**5. (1)** No person in Ontario shall engage in a discriminatory business practice. R.S.O. 1990, c. D.12, s. 5 (1).

**Seeking or providing designated information for discriminatory business practice**

**(2)** No person shall seek or agree to seek from a second person and no person shall provide or agree to provide to a second person any designated information in respect of any person for the purpose of engaging in or assisting in engaging in a discriminatory business practice as defined in section 4. R.S.O. 1990, c. D.12, s. 5 (2).

**Idem**

**(3)** Where designated information is sought or agreed to be sought from a second person or is provided or agreed to be provided to a second person, the designated information shall be deemed to be sought, agreed to be sought or to be provided or agreed to be provided, as the case may be, for the purpose of engaging in or assisting in engaging in a discriminatory business practice unless the person that so acted establishes that it is sought, agreed to be sought or is provided or agreed to be provided for another purpose. R.S.O. 1990, c. D.12, s. 5 (3).

**Negative statements of origin prohibited**

**(4)** No person in Ontario shall seek or provide a statement, whether written or oral, to the effect that any goods or services supplied or rendered by any person or government do not originate in whole or in part in a specific location, territory or country for the purpose of engaging in or assisting in engaging in a discriminatory business practice as defined in section 4, but this subsection does not prohibit a person in Ontario from seeking or providing a statement, whether written or oral, to the effect that any goods or services supplied or rendered by any person or government originate in whole or in part in a specific location, territory or country. R.S.O. 1990, c. D.12, s. 5 (4).

**Seeking or providing information for discriminatory business practice**

**(5)** No person in Ontario shall seek or provide information, whether written or oral, for the purpose of engaging in a discriminatory business practice, as to whether or not the person or any other person is a member of or has made contributions to or is otherwise associated with or involved in the activities of a charitable, fraternal or service organization. R.S.O. 1990, c. D.12, s. 5 (5).

**Idem**

**(6)** Where information specified in subsection (5) is sought from a person or is provided by a person to another person in response to a request, the information shall be deemed to be sought or provided, as the case may be, for the purpose of engaging in a discriminatory business practice unless the person that so acted establishes that it is sought or provided for another purpose. R.S.O. 1990, c. D.12, s. 5 (6).

**One act deemed practice**

**(7)** A person who performs one act referred to in section 4 shall be deemed to be engaging in a discriminatory business practice. R.S.O. 1990, c. D.12, s. 5 (7).

**Report to Director**

**(8)** Every person who receives a request, whether oral or in writing, to engage in a discriminatory business practice or to do an act that would be a contravention of subsection (2), (4) or (5) shall report the request and the response to the request within thirty days to the Director and shall provide the Director with such other information in respect of the request as the Director may require. R.S.O. 1990, c. D.12, s. 5 (8).

**Order to cease discriminatory business practice or contravention of s. 5**

**6. (1)** Where the Director has reason to believe that a person is engaging or has engaged in a discriminatory business practice or is contravening or has contravened subsection 5 (2), (4), (5) or (8), the Director may order the person to comply with section 5 in respect of the discriminatory business practice or the contravention specified in the order. R.S.O. 1990, c. D.12, s. 6 (1).

**Application of *Consumer Protection Act, 2002***

**(2)** If the Director proposes to make an order under subsection (1), subsections 111 (2) to (7) of the *Consumer Protection Act, 2002* apply with necessary modifications. 2002, c. 30, Sched. E, s. 6 (1).

**Order for immediate compliance**

**(3)** Despite subsection (2), the Director may make an order under subsection (1) to take effect immediately if, in the Director's opinion, to do so is necessary for the protection of the public or of any person and in such case subsections 112 (2) to (6) of the *Consumer Protection Act, 2002* apply with necessary modifications and, subject to subsections 112 (3), (4) and (5) of that Act, the order takes effect immediately. 2002, c. 30, Sched. E, s. 6 (1).

**Appeal**

**(4)** Even if, under section 11 of the *Licence Appeal Tribunal Act, 1999*, a party to a proceeding before the Tribunal appeals an order of the Tribunal made under this section, the order takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal. 1999, c. 12, Sched. G, s. 22 (2).

**Assurance of voluntary compliance**

**7. (1)** Any person against whom the Director proposes to make an order to comply with section 5 may enter into a written assurance of voluntary compliance in a form that the Director may prescribe undertaking not to engage in the specified discriminatory business practice or other contravention of section 5 after the date thereof. R.S.O. 1990, c. D.12, s. 7 (1).

**Assurance or consent order deemed order**

**(2)** Where an assurance of voluntary compliance is accepted by the Director or an order is made by the Director with the consent of each person to be named in the order, the assurance or consent order has and shall be given for all purposes of this Act the force and effect, other than the disqualification provided by subsection 10 (1), of an order made by the Director. R.S.O. 1990, c. D.12, s. 7 (2).

**Undertakings**

**(3)** An assurance of voluntary compliance may include such undertakings as are acceptable to the Director and the Director may receive a bond and collateral therefor as security for the reimbursement of the Treasurer of Ontario for investigation and other costs in such amount as is satisfactory to the Director. R.S.O. 1990, c. D.12, s. 7 (3).

**Duties of Director**

**(4)** The Director,

- (a) shall receive and act on or mediate complaints respecting discriminatory business practices and other contraventions of section 5; and
- (b) shall maintain available for public inspection a record of,
  - (i) assurances of voluntary compliance entered into under this Act, and
  - (ii) orders made under this Act, other than orders in respect of which hearings or

appeals are pending, to cease engaging in discriminatory business practices or other contraventions of section 5. R.S.O. 1990, c. D.12, s. 7 (4).

### **Appointment of investigators**

**8. (1)** The Director may appoint persons to be investigators for the purposes of conducting investigations. 2002, c. 30, Sched. E, s. 6 (2); 2004, c. 19, s. 8 (1).

### **Certificate of appointment**

**(2)** The Director shall issue to every investigator a certificate of appointment bearing his or her signature or a facsimile of the signature. 2002, c. 30, Sched. E, s. 6 (2); 2004, c. 19, s. 8 (1).

### **Production of certificate of appointment**

**(3)** Every investigator who is conducting an investigation, including under section 8.1, shall, upon request, produce the certificate of appointment as an investigator. 2006, c. 34, s. 11 (2).

### **Search warrant**

**8.1 (1)** Upon application made without notice by an investigator, a justice of the peace may issue a warrant, if he or she is satisfied on information under oath that there is reasonable ground for believing that,

- (a) a person has contravened or is contravening this Act or the regulations; and
- (b) there is,
  - (i) in any building, dwelling, receptacle or place anything relating to the contravention of this Act or the regulations, or
  - (ii) information or evidence relating to the contravention of this Act or the regulations that may be obtained through the use of an investigative technique or procedure or the doing of anything described in the warrant. 2002, c. 30, Sched. E, s. 6 (2); 2004, c. 19, s. 8 (1); 2006, c. 34, s. 11 (3).

### **Same**

**(2)** Subsections 107 (2) to (12) of the *Consumer Protection Act, 2002* apply with necessary modifications to a warrant issued under subsection (1). 2002, c. 30, Sched. E, s. 6 (2); 2004, c. 19, s. 8 (1).

### **Seizure of things not specified**

**8.2** An investigator who is lawfully present in a place pursuant to a warrant or otherwise in the execution of his or her duties may, without a warrant, seize anything in plain view that the investigator believes on reasonable grounds will afford evidence relating to a contravention of this Act or the regulations. 2006, c. 34, s. 11 (4).

### **Searches in exigent circumstances**

**8.3 (1)** An investigator may exercise any of the powers described in subsection 107 (2) of the *Consumer Protection Act, 2002* without a warrant if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would be impracticable to obtain the warrant. 2002, c. 30, Sched. E, s. 6 (2); 2004, c. 19, s. 8 (1).

### **Dwellings**

**(2)** Subsection (1) does not apply to a building or part of a building that is being used as a dwelling. 2002, c. 30, Sched. E, s. 6 (2); 2004, c. 19, s. 8 (1).

### **Use of force**



**(3)** The investigator may, in executing any authority given by this section, call upon police officers for assistance and use whatever force is reasonably necessary. 2002, c. 30, Sched. E, s. 6 (2); 2004, c. 19, s. 8 (1).

### **Applicability of s. 107, *Consumer Protection Act*, 2002**

**(4)** Subsections 107 (5), (9), (10), (11) and (12) of the *Consumer Protection Act*, 2002 apply with necessary modifications to a search under this section. 2002, c. 30, Sched. E, s. 6 (2); 2004, c. 19, s. 8 (1).

### **Right to compensation**

**9. (1)** A person who incurs loss or damage as a result of an act that is a contravention of this Act has the right to compensation for the loss or damage and to punitive or exemplary damages from the person who committed the contravention. R.S.O. 1990, c. D.12, s. 9 (1).

### **Enforcement of right**

**(2)** The right to compensation mentioned in subsection (1) may be enforced by action in a court of competent jurisdiction. R.S.O. 1990, c. D.12, s. 9 (2).

### **Disqualification of person supporting boycott**

**10. (1)** Every person against whom an order is made under section 6 or 11 or who is convicted of an offence under clause 16 (1) (d) or (e) is ineligible to enter into a contract to provide goods or service to the Crown or any agency of the Crown for a period of five years from the date of the making of the order or of the conviction, as the case may be. R.S.O. 1990, c. D.12, s. 10 (1).

### **Contractual provision**

**(2)** A provision in a contract that provides for a matter that is a discriminatory business practice is a nullity and is severable from the contract. R.S.O. 1990, c. D.12, s. 10 (2).

### **Proceedings to prohibit continuation or repetition of contravention**

**11. (1)** Where this Act is contravened, despite any other remedy or any penalty, the Minister or any person who complains of injury due to the contravention may apply to a judge of the Superior Court of Justice by originating motion for an order prohibiting the continuation or repetition of the contravention or the carrying on of any activity specified in the order that, in the opinion of the judge, will result or is likely to result in the continuation or repetition of the contravention by the person committing the contravention, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the court. R.S.O. 1990, c. D.12, s. 11 (1); 2001, c. 9, Sched. D, s. 14.

### **Variation or rescission of order**

**(2)** A person against whom an order has been made under subsection (1) may apply to a judge of the Superior Court of Justice for an order varying or rescinding the order made under subsection (1). R.S.O. 1990, c. D.12, s. 11 (2); 2001, c. 9, Sched. D, s. 14.

### **Service of notice**

**12.** Any notice or document required by this Act to be served or given may be served or given personally or by registered mail addressed to the person to whom notice is to be given at the person's last known address and, where notice is served or given by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that the person, acting in good faith, through absence, accident, illness or other cause beyond the person's control, did not receive the notice, or did not receive the notice until a later date. R.S.O. 1990, c. D.12, s. 12.

### **Matters confidential**

**13.** Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation, shall preserve secrecy in respect of all matters that come to his or her knowledge in the course of his or her duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act or any proceeding under or in accordance with this Act;
- (b) to his or her counsel or to the court in any proceeding under or in accordance with this Act;
- (c) to inform the person involved of a discriminatory business practice and of any information relevant to the person's rights under this Act; or
- (d) with the consent of the person to whom the information relates. R.S.O. 1990, c. D.12, s. 13; 2002, c. 30, Sched. E, s. 6 (3).

### **Certificate of Director as evidence**

**14.** A copy of an order or assurance of voluntary compliance purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as proof in the absence of evidence to the contrary of the facts stated therein for all purposes in any action, proceeding or prosecution. R.S.O. 1990, c. D.12, s. 14.

### **Regulations**

**15. (1)** The Lieutenant Governor in Council may make regulations exempting any person or class of persons from any provision of this Act. R.S.O. 1990, c. D.12, s. 15 (1).

### **Tabling in Assembly**

**(2)** A regulation made under subsection (1) shall be tabled in the Assembly as soon as practicable after the day on which it comes into force if the Assembly is in session or, if not, at the commencement of the next session. R.S.O. 1990, c. D.12, s. 15 (2).

### **Offences**

**16. (1)** Every person who, knowingly,

- (a) furnishes false information in an investigation under this Act;
- (b) fails to comply with any order or assurance of voluntary compliance made or entered into under this Act;
- (c) obstructs a person making an investigation under section 8.1 or 8.3;
- (d) contravenes any provision of subsection 5 (2), (4), (5) or (8); or
- (e) contravenes any provision of section 13,

is guilty of an offence and on conviction is liable to a fine of not more than \$25,000. R.S.O. 1990, c. D.12, s. 16 (1); 2002, c. 30, Sched. E, s. 6 (4); 2004, c. 19, s. 8 (2).

### **Corporation**

**(2)** Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$100,000 and not as provided therein. R.S.O. 1990, c. D.12, s. 16 (2).

### **Directors and officers**

**(3)** Where a corporation has been convicted of an offence under subsection (1) or (2),

- (a) each director of the corporation; and

- (b) each officer, servant or agent of the corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence,

is a party to the offence unless he or she satisfies the court that he or she did not authorize, permit or acquiesce in the offence. R.S.O. 1990, c. D.12, s. 16 (3).

### **Limitation period**

[\(4\)](#) No proceeding under this section shall be commenced more than two years after the time when the subject-matter of the proceeding arose. R.S.O. 1990, c. D.12, s. 16 (4).

### **Annual report**

[17.](#) The Director shall report annually to the Minister on the enforcement of this Act and on such other matters related to this Act as the Director considers advisable or the Minister may require, and the report shall set out,

- (a) the names of all persons who entered into assurances of voluntary compliance under this Act in the year with the Director;
- (b) the names of all persons against whom orders, other than orders in respect of which hearings or appeals are pending, have been made under this Act in the year to cease engaging in discriminatory business practices or other contraventions of section 5;
- (c) the number of complaints received by the Director in the year respecting discriminatory business practices and other contraventions of section 5, together with,
  - (i) the number of complaints mediated and the results of the mediations, and
  - (ii) the number of complaints acted on and the action taken;
- (d) the number and nature of the requests and responses reported to the Director in accordance with subsection 5 (8) in the year, the action taken thereon and the results of the action taken; and
- (e) the names of all persons convicted of offences under this Act in the year, including the offence for which each was convicted and, in each case, the penalty imposed,

and the Minister shall lay the report before the Assembly if it is in session or, if not, at the next session. R.S.O. 1990, c. D.12, s. 17.

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