

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 2 (subsection 14 (3) of the Act)

I move that clause 14 (3) (b) of the Act, as set out in section 2 of the Bill, be amended by striking out “specified in the approval” and substituting “specified in the designation”.

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M _____

Section 2 (subsections 14 (4) and (5) of the Act)

I move that subsections 14 (4) and (5) of the Act, as set out in section 2 the Bill, be struck out and the following substituted:

Inquiries initiated by Commission

(4) The Commission may, on its own initiative, inquire into one or more programs to determine whether the programs are special programs for the purposes of subsection (1).

End of inquiry

(5) At the conclusion of an inquiry under subsection (4), the Commission may designate as a special program any of the programs under inquiry if, in its opinion, the programs meet the requirements of subsection (1).

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M_____

Section 2 (subsection 14 (6) of the Act)

I move that subsection 14 (6) of the Act, as set out in section 2 of the Bill, be amended by striking out “subsection (2) or (5)” and substituting “subsection (3) or (5)”.

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M_____

Section 2 (new subsection 14 (6.1) of the Act)

I move that section 14 of the Act, as amended by section 2 of the Bill, be amended by adding the following subsection:

Renewal of designation

(6.1) If an application for renewal of a designation of a program as a special program is made to the Commission before its expiry under subsection (6), the Commission may,

- (a) renew the designation if, in its opinion, the program continues to meet the requirements of subsection (1); or
- (b) renew the designation on the condition that the program make such modifications as are specified in the designation in order to meet the requirements of subsection (1).

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M_____

Section 2 (subsection 14 (7) of the Act)

I move that subsection 14 (7) of the Act, as set out in section 2 of the Bill, be struck out and the following substituted:

Effect of designation, etc.

- (7) In a proceeding,
- (a) evidence that a program has been designated as a special program under this section is proof, in the absence of evidence to the contrary, that the program is a special program for the purposes of subsection (1); and
 - (b) evidence that the Commission has considered and refused to designate a program as a special program under this section is proof, in the absence of evidence to the contrary, that the program is not a special program for the purposes of subsection (1).

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M_____

Section 2 (new subsection 14 (9) of the Act)

I move that section 14 of the Act, as amended by section 2 of the Bill, be amended by adding the following subsection:

Tribunal finding

(9) For the purposes of a proceeding before the Tribunal, the Tribunal may make a finding that a program meets the requirements of a special program under subsection (1), even though the program has not been designated as a special program by the Commission under this section, subject to clause (7) (b).

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M_____

Section 5 (new subsections 27 (2.1) and (2.2) of the Act)

I move that section 27 of the Act, as set out in section 5 of the Bill, be amended by adding the following subsections:

Appointment

(2.1) Every person appointed to the Commission shall have knowledge, experience or training with respect to human rights law and issues.

Criteria

(2.2) In the appointment of persons to the Commission under subsection (2), the importance of reflecting, in the composition of the Commission as a whole, the diversity of Ontario's population shall be recognized.

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M_____

Section 5 (subsection 27 (7) and new subsections 27 (7.1) and (7.2) of the Act)

I move that subsection 27 (7) of the Act, as set out in section 5 of the Bill, be struck out and the following substituted:

Employees

(7) The Commission may appoint such employees as it considers necessary for the proper conduct of its affairs and the employees shall be appointed under the *Public Service Act*.

Evidence obtained in performance of duties

(7.1) A member of the Commission shall not be required to give testimony in a civil suit or any proceeding as to information obtained in the performance of duties under this Act.

Same, employees

(7.2) An employee of the Commission shall not be required to give testimony in a civil suit or any proceeding other than a proceeding under this Act as to information obtained in the performance of duties under this Act.

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M_____

Section 5 (subsection 27 (8) of the Act)

I move that subsection 27 (8) of the Act, as set out in section 5 of the Bill, be amended by striking out “to any other member of the Commission” and substituting “to any member of the Anti-Racism Secretariat, the Disability Rights Secretariat or an advisory group or to any other member of the Commission”.

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M_____

Section 5 (new subsection 27 (9) of the Act)

I move that section 27 of the Act, as set out in section 5 of the Bill, be amended by adding the following subsection:

Divisions

(9) The Commission may authorize any function of the Commission to be performed by a division of the Commission composed of at least three members of the Commission.

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M_____

Section 5 (section 29 of the Act)

I move that the portion of section 29 before clause (a), as set out in section 5 of the Bill, be struck out and the following substituted:

Functions of Commission

29. The functions of the Commission are to promote and advance respect for human rights in Ontario, to protect human rights in Ontario and, recognizing that it is in the public interest to do so and that it is the Commission's duty to protect the public interest, to identify and promote the elimination of discriminatory practices and, more specifically,

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M_____

Section 5 (subclause 29 (b) (i) of the Act)

I move that subclause 29 (b) (i) of the Act, as set out in section 5 of the Bill, be struck out and the following substituted:

- (i) promote awareness and understanding of, respect for and compliance with this Act, and

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M_____

Section 5 (clause 29 (c) of the Act)

I move that clause 29 (c) of the Act, as set out in section 5 of the Bill, be amended by striking out “research into discriminatory practices that infringe rights under Part I” and substituting “research into discriminatory practices”.

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M_____

Section 5 (clause 29 (e) of the Act)

I move that clause 29 (e) of the Act, as set out in section 5 of the Bill, be struck out and the following substituted:

- (e) to initiate reviews and inquiries into incidents of tension or conflict, or conditions that lead or may lead to incidents of tension or conflict, in a community, institution, industry or sector of the economy, and to make recommendations, and encourage and co-ordinate plans, programs and activities, to reduce or prevent such incidents or sources of tension or conflict;

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M_____

Section 5 (clause 29 (g) of the Act)

I move that clause 29 (g) of the Act, as set out in section 5 of the Bill, be amended by striking out “to approve” at the beginning and substituting “to designate”.

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M_____

Section 5 (new clause 29 (g.1) of the Act)

I move that section 29 of the Act, as set out in section 5 of the Bill, be amended by adding the following clause:

(g.1) to approve policies under section 29.1;

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M_____

Section 5 (clause 29 (i) of the Act)

I move that clause 29 (i) of the Act, as set out in section 5 of the Bill, be struck out and the following substituted:

- (i) to report to the people of Ontario on the state of human rights in Ontario and on its affairs;

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M_____

Section 5 (new section 29.1 of the Act)

I move that Part III of the Act, as set out in section 5 of the Bill, be amended by adding the following section:

Commission documents

29.1 The Commission may approve policies prepared and published by the Commission to provide guidance in the application of Parts I and II.

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M_____

Section 5 (new sections 29.2 and 29.3 of the Act)

I move that Part III of the Act, as set out in section 5 of the Bill, be amended by adding the following sections:

Inquiries

29.2 (1) The Commission may conduct an inquiry under this section for the purpose of carrying out its functions under this Act if the Commission believes it is in the public interest to do so.

Conduct of inquiry

(2) An inquiry may be conducted under this section by any person who is appointed by the Commission to carry out inquiries under this section.

Production of certificate

(3) A person conducting an inquiry under this section shall produce proof of their appointment upon request.

Entry

(4) A person conducting an inquiry under this section may, without warrant, enter any lands or any building, structure or premises where the person has reason to believe there may be documents, things or information relevant to the inquiry.

Time of entry

(5) The power to enter a place under subsection (4) may be exercised only during the place's regular business hours or, if it does not have regular business hours, during daylight hours.

Dwellings

(6) A person conducting an inquiry under this section shall not enter into a place or part of a place that is a dwelling without the consent of the occupant.

Powers on inquiry

- (7) A person conducting an inquiry may,
- (a) request the production for inspection and examination of documents or things that are or may be relevant to the inquiry;
 - (b) upon giving a receipt for it, remove from a place documents produced in response to a request under clause (a) for the purpose of making copies or extracts;
 - (c) question a person on matters that are or may be relevant to the inquiry, subject to the person's right to have counsel or a personal representative present during such questioning and exclude from the questioning any person who may be adverse in interest to the inquiry;
 - (d) use any data storage, processing or retrieval device or system used in carrying on business in the place in order to produce a document in readable form;
 - (e) take measurements or record by any means the physical dimensions of a place;
 - (f) take photographs, video recordings or other visual or audio recordings of the interior or exterior of a place; and
 - (g) require that a place or part thereof not be disturbed for a reasonable period of time for the purposes of carrying out an examination, inquiry or test.

Written demand

(8) A demand that a document or thing be produced must be in writing and must include a statement of the nature of the document or thing required.

Assistance

(9) A person conducting an inquiry may be accompanied by any person who has special, expert or professional knowledge and who may be of assistance in carrying out the inquiry.

Use of force prohibited

(10) A person conducting an inquiry shall not use force to enter and search premises under this section.

Obligation to produce and assist

(11) A person who is requested to produce a document or thing under clause (7) (a) shall produce it and shall, on request by the person conducting the inquiry, provide any assistance that is reasonably necessary, including assistance in using any data storage, processing or retrieval device or system, to produce a document in readable form.

Return of removed things

(12) A person conducting an inquiry who removes any document or thing from a place under clause (7) (b) shall,

- (a) make it available to the person from whom it was removed, on request, at a time and place convenient for both that person and the person conducting the inquiry; and
- (b) return it to the person from whom it was removed within a reasonable time.

Admissibility of copies

(13) A copy of a document certified by a person conducting an inquiry to be a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value.

Obstruction

(14) No person shall obstruct or interfere with a person conducting an inquiry under this section.

Search warrant

29.3 (1) The Commission may authorize a person to apply to a justice of the peace for a warrant to enter a place and conduct a search of the place if,

- (a) a person conducting an inquiry under section 29.2 has been denied entry to any place or asked to leave a place before concluding a search;
- (b) a person conducting an inquiry under section 29.2 made a request for documents or things and the request was refused; or
- (c) an inquiry under section 29.2 is otherwise obstructed or prevented.

Same

(2) Upon application by a person authorized under subsection (1) to do so, a justice of the peace may issue a warrant under this section if he or she is satisfied on information under oath or affirmation that the warrant is necessary for the purposes of carrying out the inquiry under section 29.2.

Powers

(3) A warrant obtained under subsection (2) may authorize a person named in the warrant, upon producing proof of his or her appointment,

- (a) to enter any place specified in the warrant, including a dwelling; and
- (b) to do any of the things specified in the warrant.

Conditions on search warrant

(4) A warrant obtained under subsection (2) shall contain such conditions as the justice of the peace considers advisable to ensure that any search authorized by the warrant is reasonable in the circumstances.

Time of execution

(5) An entry under a warrant issued under this section shall be made at such reasonable times as may be specified in the warrant.

Expiry of warrant

(6) A warrant issued under this section shall name a date of expiry, which shall be no later than 15 days after the warrant is issued, but a justice of the peace may extend the date of expiry for an additional period of no more than 15 days, upon application without notice by the person named in the warrant.

Use of force

(7) The person authorized to execute the warrant may call upon police officers for assistance in executing the warrant and the person may use whatever force is reasonably necessary to execute the warrant.

Obstruction prohibited

(8) No person shall obstruct or hinder a person in the execution of a warrant issued under this section.

Application

(9) Subsections 29.2 (11), (12) and (13) apply with necessary modifications to an inquiry carried out pursuant to a warrant issued under this section.

Evidence used in Tribunal proceedings

29.4 Despite any other Act, evidence obtained on an inquiry under section 29.2 or 29.3 may be received into evidence in a proceeding before the Tribunal.

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M_____

Section 5 (subsection 30 (2) of the Act)

I move that subsection 30 (2) of the Act, as set out in section 5 of the Bill, be amended by striking out “by the Minister” and substituting “by the Lieutenant Governor in Council”.

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M_____

Section 5 (subsection 30 (3) of the Act)

I move that subsection 30 (3) of the Act, as set out in section 5 of the Bill, be amended by striking out “The Minister” at the beginning and substituting “The Lieutenant Governor in Council”.

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M_____

Section 5 (subsection 30 (4) of the Act)

I move that subsection 30 (4) of the Act, as set out in section 5 of the Bill, be amended by,

- (a) striking out “make recommendations” in clause (a) and substituting “make recommendations to the Commission”; and
- (b) striking out “or prescribed by regulation” at the end of clause (c).

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M_____

Section 5 (subsection 31 (2) of the Act)

I move that subsection 31 (2) of the Act, as set out in section 5 of the Bill, be amended by striking out “by the Minister” and substituting “by the Lieutenant Governor in Council”.

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M_____

Section 5 (subsection 31 (3) of the Act)

I move that subsection 31 (3) of the Act, as set out in section 5 of the Bill, be amended by striking out “The Minister” at the beginning and substituting “The Lieutenant Governor in Council”.

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M_____

Section 5 (subsection 31 (4) of the Act)

I move that subsection 31 (4) of the Act, as set out in section 5 of the Bill, be amended by,

- (a) striking out “make recommendations” in clause (a) and substituting “make recommendations to the Commission”; and
- (b) striking out “or prescribed by regulation” at the end of clause (c).

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Section 5 (sections 31.2 and 31.3 of the Act)

I move that section 31.2 of the Act, as set out in section 5 of the Bill, be struck out and the following substituted:

Annual report

31.2 (1) Every year, the Commission shall prepare an annual report on the affairs of the Commission that occurred during the 12-month period ending on March 31 of each year.

Report to Speaker

(2) The Commission shall submit the report to the Speaker of the Assembly no later than on June 30 in each year who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next session.

Copy to Minister

(3) The Commission shall give a copy of the report to the Minister at least 30 days before it is submitted to the Speaker under subsection (2).

Other reports

31.3 In addition to the annual report, the Commission may make any other reports respecting the state of human rights in Ontario and the affairs of the Commission as it considers appropriate, and may present such reports to the public or any other person it considers appropriate.

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M_____

Section 6 (subsection 32 (1) of the Act)

I move that subsection 32 (1) of the Act, as set out in section 6 of the Bill, be struck out and the following substituted:

Tribunal

32. (1) The Tribunal known as the Human Rights Tribunal of Ontario in English and Tribunal des droits de la personne de l'Ontario in French is continued.

Composition

(1.1) The Tribunal shall be composed of such members as are appointed by the Lieutenant Governor in Council in accordance with the selection process described in subsection (1.2).

Selection process

(1.2) The selection process for the appointment of members of the Tribunal shall be a competitive process and the criteria to be applied in assessing candidates shall include the following:

1. Experience, knowledge or training with respect to human rights law and issues.
2. Aptitude for impartial adjudication.
3. Aptitude for applying the alternative adjudicative practices and procedures that may be set out in the Tribunal rules.

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M_____

Section 6 (new subsections 32 (4.1) and (4.2) of the Act)

I move that section 32 of the Act, as set out in section 6 of the Bill, be amended by adding the following subsections:

Alternate chair

(4.1) The Lieutenant Governor in Council shall designate one of the vice-chairs to be the alternate chair.

Same

(4.2) If the chair is unable to act, the alternate chair shall perform the duties of the chair and, for this purpose, has all the powers of the chair.

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M_____

Section 6 (subsection 32 (5) of the Act)

I move that subsection 32 (5) of the Act, as set out in section 6 of the Bill, be struck out and the following substituted:

Employees

(5) The Tribunal may appoint such employees as it considers necessary for the proper conduct of its affairs and the employees shall be appointed under the *Public Service Act*.

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M_____

Section 6 (section 34 of the Act)

I move that section 34 of the Act, as set out in section 6 of the Bill, be struck out.

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M_____

Section 6 (clauses 35 (1) (a) and (b) of the Act)

I move that clauses 35 (1) (a) and (b) of the Act, as set out in section 6 of the Bill, be struck out and the following substituted:

- (a) within 12 months after the incident to which the application relates; or
- (b) if there was a series of incidents, within 12 months after the last incident in the series.

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M_____

Section 6 (new subsections 35 (4.1), (4.2), (4.3), (4.4) and (4.5) of the Act)

I move that section 35 of the Act, as set out in section 6 of the Bill, be amended by adding the following subsections:

Application on behalf of another

(4.1) A person or organization, other than the Commission, may apply on behalf of another person to the Tribunal for an order under section 42 if the other person,

- (a) would have been entitled to bring an application under subsection (1); and
- (b) consents to the application.

Participation in proceedings

(4.2) If a person or organization makes an application on behalf of another person, the person or organization may participate in the proceeding in accordance with the Tribunal rules.

Consent form

(4.3) A consent under clause (4.1) (b) shall be in a form specified in the Tribunal rules.

Time of application

(4.4) An application under subsection (4.1) shall be made within the time period required for making an application under subsection (1).

Application

(4.5) Subsections (2) and (3) apply to an application made under subsection (4.1).

Withdrawal of application

(4.6) An application under subsection (4.1) may be withdrawn by the person on behalf of whom the application is made in accordance with the Tribunal rules.

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M_____

Section 6 (subsection 35 (5) of the Act)

I move that subsection 35 (5) of the Act, as set out in section 6 of the Bill, be amended by,

- (a) striking out “has not been finally determined” in clause (a) and substituting “has not been finally determined or withdrawn”; and
- (b) adding “or the matter has been settled” at the end of clause (b).

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M_____

Section 6 (clauses 36 (1) (a), (b) and (c) of the Act)

I move that clauses 36 (1) (a), (b) and (c) of the Act, as set out in section 6 of the Bill, be struck out and the following substituted:

- (a) it is in the public interest to make an application; and
- (b) an order under section 43 could provide an appropriate remedy.

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M_____

Section 6 (new subsection 36 (4) of the Act)

I move that section 36 of the Act, as set out in section 6 of the Bill, be amended by adding the following subsection:

Applications dealt with together

(4) If a person or organization makes an application under section 35 and the Commission makes an application under this section in respect of the same matter, the two applications shall be dealt with together in the same proceeding unless the Tribunal determines otherwise.

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M_____

Section 6 (new sections 36.1, 36.2 and 36.3 of the Act)

I move that Part IV of the Act, as set out in section 6 of the Bill, be amended by adding the following sections:

Parties

36.1 The parties to an application under section 35 or 36 are the following:

1. In the case of an application under subsection 35 (1), the person who made the application.
2. In the case of an application under subsection 35 (4.1), the person on behalf of whom the application is made.
3. In the case of an application under section 36, the Commission.
4. Any person against whom an order is sought in the application.
5. Any other person or the Commission, if they are added as a party by the Tribunal.

Intervention by Commission

36.2 (1) The Commission may intervene in an application under section 35 on such terms as the Tribunal may determine having regard to the role and mandate of the Commission under this Act.

Intervention as a party

(2) The Commission may intervene as a party to an application under section 35 if the person or organization who made the application consents to the intervention as a party.

Disclosure of information to Commission

36.3 Despite anything in the *Freedom of Information and Protection of Privacy Act*, at the request of the Commission, the Tribunal shall disclose to the Commission copies of applications and responses filed with the Tribunal and may disclose to the Commission other documents in its custody or in its control.

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M_____

Section 6 (section 37,38 and 39 of the Act)

I move that sections 37, 38 and 39 of the Act, as set out in section 6 of the Bill, be struck out and the following substituted:

Powers of Tribunal

37. The Tribunal has the jurisdiction to exercise the powers conferred on it by or under this Act and to determine all questions of fact or law that arise in any application before it.

Disposition of applications

37.1 The Tribunal shall dispose of applications made under this Part by adopting the procedures and practices provided for in its rules or otherwise available to the Tribunal which, in its opinion, offer the best opportunity for a fair, just and expeditious resolution of the merits of the applications.

Interpretation of Part and rules

37.2 This Part and the Tribunal rules shall be liberally construed to permit the Tribunal to adopt practices and procedures, including alternatives to traditional adjudicative or adversarial procedures that, in the opinion of the Tribunal, will facilitate fair, just and expeditious resolutions of the merits of the matters before it.

Statutory Powers Procedure Act

38. (1) The provisions of the *Statutory Powers Procedure Act* apply to a proceeding before the Tribunal unless they conflict with a provision of this Act, the regulations or the Tribunal rules.

Conflict

(2) Despite section 32 of the *Statutory Powers Procedure Act*, this Act, the regulations and the Tribunal rules prevail over the provisions of that Act with which they conflict.

Tribunal rules

39. (1) The Tribunal may make rules governing the practice and procedure before it.

Required practices and procedures

(2) The rules shall ensure that the following requirements are met with respect to any proceeding before the Tribunal:

1. An application that is within the jurisdiction of the Tribunal shall not be finally disposed of without affording the parties an opportunity to make oral submissions in accordance with the rules.
2. An application may not be finally disposed of without written reasons.

Same

(3) Without limiting the generality of subsection (1), the Tribunal rules may,

- (a) provide for and require the use of hearings or of practices and procedures that are provided for under the *Statutory Powers Procedure Act* or that are alternatives to traditional adjudicative or adversarial procedures;
- (b) authorize the Tribunal to,
 - (i) define or narrow the issues required to dispose of an application and limit the evidence and submissions of the parties on such issues, and
 - (ii) determine the order in which the issues and evidence in a proceeding will be presented;
- (c) authorize the Tribunal to conduct examinations in chief or cross-examinations of a witness;
- (d) prescribe the stages of its processes at which preliminary, procedural or interlocutory matters will be determined;
- (e) authorize the Tribunal to make or cause to be made such examinations of records and such other inquiries as it considers necessary in the circumstances;
- (f) authorize the Tribunal to require a party to a proceeding or another person to,

- (i) produce any document, information or thing and provide such assistance as is reasonably necessary, including using any data storage, processing or retrieval device or system, to produce the information in any form,
 - (ii) provide a statement or oral or affidavit evidence, or
 - (iii) in the case of a party to the proceeding, adduce evidence or produce witnesses who are reasonably within the party's control; and
- (g) govern any matter prescribed by the regulations.

General or particular

- (4) The rules may be of general or particular application.

Consistency

- (5) The rules shall be consistent with this Part.

Not a regulation

(6) The rules made under this section are not regulations for the purposes of the *Regulations Act*.

Public consultations

(7) The Tribunal shall hold public consultations before making a rule under this section.

Failure to comply with rules

(8) Failure on the part of the Tribunal to comply with the practices and procedures required by the rules or the exercise of a discretion under the rules by the Tribunal in a particular manner is not a ground for setting aside a decision of the Tribunal on an application for judicial review or any other form of relief, unless the failure or the exercise of a discretion caused a substantial wrong which affected the final disposition of the matter.

Adverse inference

(9) The Tribunal may draw an adverse inference from the failure of a party to comply, in whole or in part, with an order of the Tribunal for the party to do anything under a rule made under clause (3) (f).

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 6 (new section 39.1 of the Act)

I move that Part IV of the Act, as set out in section 6 of the Bill, be amended by adding the following section:

Tribunal inquiry

39.1 (1) At the request of a party to an application under this Part, the Tribunal may appoint a person to conduct an inquiry under this section if the Tribunal is satisfied that,

- (a) an inquiry is required in order to obtain evidence;
- (b) the evidence obtained may assist in achieving a fair, just and expeditious resolution of the merits of the application; and
- (c) it is appropriate to do so in the circumstances.

Production of certificate

(2) A person conducting an inquiry under this section shall produce proof of their appointment upon request.

Entry

(3) A person conducting an inquiry under this section may, without warrant, enter any lands or any building, structure or premises where the person has reason to believe there may be evidence relevant to the application.

Time of entry

(4) The power to enter a place under subsection (3) may be exercised only during the place's regular business hours or, if it does not have regular business hours, during daylight hours.

Dwellings

(5) A person conducting an inquiry shall not enter into a place or part of a place that is a dwelling without the consent of the occupant.

Powers on inquiry

- (6) A person conducting an inquiry may,
- (a) request the production for inspection and examination of documents or things that are or may be relevant to the inquiry;
 - (b) upon giving a receipt for it, remove from a place documents produced in response to a request under clause (a) for the purpose of making copies or extracts;
 - (c) question a person on matters that are or may be relevant to the inquiry, subject to the person's right to have counsel or a personal representative present during such questioning and exclude from the questioning any person who may be adverse in interest to the inquiry;
 - (d) use any data storage, processing or retrieval device or system used in carrying on business in the place in order to produce a document in readable form;
 - (e) take measurements or record by any means the physical dimensions of a place;
 - (f) take photographs, video recordings or other visual or audio recordings of the interior or exterior of a place; and
 - (g) require that a place or part thereof not be disturbed for a reasonable period of time for the purposes of carrying out an examination, inquiry or test.

Written demand

(7) A demand that a document or thing be produced must be in writing and must include a statement of the nature of the document or thing required.

Assistance

(8) A person conducting an inquiry may be accompanied by any person who has special, expert or professional knowledge and who may be of assistance in carrying out the inquiry.

Use of force prohibited

(9) A person conducting an inquiry shall not use force to enter and search premises under this section.

Obligation to produce and assist

(10) A person who is requested to produce a document or thing under clause (6) (a) shall produce it and shall, on request by the person conducting the inquiry, provide any assistance that is reasonably necessary, including assistance in using any data storage, processing or retrieval device or system, to produce a document in readable form.

Return of removed things

(11) A person conducting an inquiry who removes any document or thing from a place under clause (6) (b) shall,

- (a) make it available to the person from whom it was removed, on request, at a time and place convenient for both that person and the person conducting the inquiry; and
- (b) return it to the person from whom it was removed within a reasonable time.

Admissibility of copies

(12) A copy of a document certified by a person conducting an inquiry to be a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value.

Obstruction

(13) No person shall obstruct or interfere with a person conducting an inquiry under this section.

Inquiry report

(14) A person conducting an inquiry shall prepare a report and submit it to the Tribunal and the parties to the application that gave rise to the inquiry in accordance with the Tribunal rules.

Transfer of inquiry to Commission

(15) The Commission may, at the request of the Tribunal, appoint a person to conduct an inquiry under this section and the person so appointed has all of the powers of a person appointed by the Tribunal under this section and shall report to the Tribunal in accordance with subsection (14).

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 6 (section 41 of the Act)

I move that section 41 of the Act, as set out in section 6 of the Bill, be struck out and the following substituted:

Dismissal in accordance with rules

41. The Tribunal may dismiss an application, in whole or in part, in accordance with its rules if the Tribunal is of the opinion that another proceeding has appropriately dealt with the substance of the application.

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 6 (paragraph 3 of subsection 42 (1) of the Act)

I move that paragraph 3 of subsection 42 (1) of the Act, as set out in section 6 of the Bill, be struck out and the following substituted:

3. An order directing any party to the application to do anything that, in the opinion of the Tribunal, the party ought to do to promote compliance with this Act.

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 6 (subsection 42 (2) of the Act)

I move that subsection 42 (2) of the Act, as set out in section 6 of the Bill, be struck out and the following substituted:

Orders under par. 3 of subs. (1)

- (2) For greater certainty, an order under paragraph 3 of subsection (1),
 - (a) may direct a person to do anything with respect to future practices; and
 - (b) may be made even if no order under that paragraph was requested.

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 6 (section 43 of the Act)

I move that section 43 of the Act, as set out in section 6 of the Bill, be struck out and the following substituted:

Orders of Tribunal: applications under s. 36

43. (1) If, on an application under section 36, the Tribunal determines that any one or more of the parties to the application have infringed a right under Part I, the Tribunal may make an order directing any party to the application to do anything that, in the opinion of the Tribunal, the party ought to do to promote compliance with this Act.

Same

(2) For greater certainty, an order under subsection (1) may direct a person to do anything with respect to future practices.

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 6 (new section 43.1 of the Act)

I move that Part IV of the Act, as set out in section 6 of the Bill, be amended by adding the following section:

Matters referred to Commission

43.1 (1) The Tribunal may refer any matters arising out of a proceeding before it to the Commission if, in the Tribunal's opinion, they are matters of public interest or are otherwise of interest to the Commission.

Same

(2) The Commission may, in its discretion, decide whether to deal with a matter referred to it by the Tribunal.

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 6 (section 44 and new sections 44.1 and 44.2 of the Act)

I move that section 44 of the Act, as set out in section 6 of the Bill, be struck out and the following substituted:

Documents published by Commission

44. (1) In a proceeding under this Part, the Tribunal may consider policies approved by the Commission under section 29.1.

Same

(2) Despite subsection (1), the Tribunal shall consider a policy approved by the Commission under section 29.1 in a proceeding under this Part if a party to the proceeding or an intervenor requests that it do so.

Stated case to Divisional court

44.1 (1) If the Tribunal makes a final decision or order in a proceeding in which the Commission was a party or an intervenor, and the Commission believes that the decision or order is not consistent with a policy that has been approved by the Commission under section 29.1, the Commission may apply to the Tribunal to have the Tribunal state a case to the Divisional Court.

Same

(2) If the Tribunal determines that the application of the Commission relates to a question of law and that it is appropriate to do so, it may state the case in writing for the opinion of the Divisional Court upon the question of law.

Parties

(3) The parties to a stated case under this section are the parties to the proceeding referred to in subsection (1) and, if the Commission was an intervenor in that proceeding, the Commission.

Submissions by Tribunal

(4) The Divisional Court may hear submissions from the Tribunal.

Powers of Divisional Court

(5) The Divisional Court shall hear and determine the stated case.

No stay

(6) Unless otherwise ordered by the Tribunal or the Divisional Court, an application by the Commission under subsection (1) or the stating of a case to the Divisional Court under subsection (2) does not operate as a stay of the final decision or order of the Tribunal.

Reconsideration of Tribunal decision

(7) Within 30 days of receipt of the decision of the Divisional Court, any party to the stated case proceeding may apply to the Tribunal for a reconsideration of its original decision or order in accordance with section 44.2.

Reconsideration of Tribunal decision

44.2 (1) Any party to a proceeding before the Tribunal may request that the Tribunal reconsider its decision in accordance with the Tribunal rules.

Same

(2) Upon request under subsection (1) or on its own motion, the Tribunal may reconsider its decision in accordance with its rules.

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 6 (section 45 of the Act)

I move that section 45 of the Act, as set out in section 6 of the Bill, be struck out and the following substituted:

Decisions final

45. Subject to section 44.1 of this Act, section 21.1 of the *Statutory Powers Procedure Act* and the Tribunal rules, a decision of the Tribunal is final and not subject to appeal and shall not be altered or set aside in an application for judicial review or in any other proceeding unless the decision is patently unreasonable.

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 6 (paragraphs 1, 2 and 3 of subsection 45.1 (6) of the Act)

I move that paragraphs 1, 2 and 3 of subsection 45.1 (6) of the Act, as set out in section 6 of the Bill, be struck out and the following substituted:

1. The parties to the settlement.
2. Any other person or the Commission, if they are added as a party by the Tribunal.

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 6 (new subsection 45.1 (6.1) of the Act)

I move that section 45.1 of the Act, as set out in section 6 of the Bill, be amended by adding the following subsection:

Intervention by Commission

(6.1) Section 36.2 applies with necessary modifications to an application under subsection (3).

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 6 (subsection 45.1 (7) of the Act)

I move that subsection 45.1 (7) of the Act, as set out in section 6 of the Bill, be amended by striking out “that it would have been authorized to make under section 42 or 43 had no settlement been entered into” at the end and substituting “that it considers appropriate to remedy the contravention”.

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 6 (section 45.2 of the Act)

I move that section 45.2 of the Act, as set out in section 6 of the Bill, be struck out.

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

New section 6.1 (new Part IV.1 of the Act)

I move that the Bill be amended by adding the following section:

6.1 The Act is amended by adding the following Part:

**PART IV.1
HUMAN RIGHTS LEGAL SUPPORT CENTRE**

Centre established

45.4 (1) A corporation without share capital is established under the name Human Rights Legal Support Centre in English and Centre d'assistance juridique en matière de droits de la personne in French.

Membership

(2) The members of the Centre shall consist of its board of directors.

Not a Crown agency

(3) The Centre is not an agent of Her Majesty nor a Crown agent for the purposes of the *Crown Agency Act*.

Powers of natural person

(4) The Centre has the capacity and the rights, powers and privileges of a natural person, subject to the limitations set out in this Act or the regulations.

Independent from but accountable to Ontario

(5) The Centre shall be independent from, but accountable to, the Government of Ontario as set out in this Act.

Objects

45.5 The objects of the Centre are,

- (a) to establish and administer a cost-effective and efficient system for providing support services, including legal services, respecting applications to the Tribunal under Part IV;
- (b) to establish policies and priorities for the provision of support services based on its financial resources.

Provision of support services

45.6 (1) The Centre shall provide the following support services:

1. Advice and assistance, legal and otherwise, respecting the infringement of rights under Part I.
2. Legal services in relation to,
 - i. the making of applications to the Tribunal under Part IV,
 - ii. proceedings before the Tribunal under Part IV,
 - iii. applications for judicial review arising from Tribunal proceedings,
 - iv. stated case proceedings,
 - v. the enforcement of Tribunal orders.
3. Such other services as may be prescribed by regulation.

Availability of services

(2) The Centre shall ensure that the support services are available throughout the Province, using such methods of delivering the services as the Centre believes are appropriate.

Board of directors

45.7 (1) The affairs of the Centre shall be governed and managed by its board of directors.

Composition and appointment

(2) The board of directors of the Centre shall consist of no fewer than five and no more than nine members appointed by the Lieutenant Governor in Council in accordance with the regulations.

Appointment of Chair

(3) A Chair designated by the Lieutenant Governor in Council will preside at meetings.

Remuneration

(4) The board of directors may be remunerated as determined by the Lieutenant Governor in Council.

Duties

(5) The board of directors of the Centre shall be responsible for furthering the objects of the Centre.

Delegation

(6) The board of directors may delegate any power or duty to any committee, to any member of a committee or to any officer or employee of the Centre.

Same

(7) A delegation shall be in writing and shall be on the terms and subject to the limitations, conditions or requirements specified in it.

Board to act responsibly

(8) The board of directors shall act in a financially responsible and accountable manner in exercising its powers and performing its duties.

Standard of care

(9) Members of the board of directors shall act in good faith with a view to the objects of the Centre and shall exercise the care, diligence and skill of a reasonably prudent person.

Government funding

45.8 (1) The Centre shall submit its annual budget to the Minister for approval every year in a manner and form, and at a time, specified in the regulations.

Approved budget included in estimates

(2) If approved by the Minister, the annual budget shall be submitted to Cabinet to be reviewed for inclusion in the estimates of the Ministry.

Appropriation by Legislature

(3) The money required for the purposes of this Act shall be paid out of such money as is appropriated therefor by the Legislature.

Centre's money not part of Consolidated Revenue Fund

45.9 The Centre's money and investments do not form part of the Consolidated Revenue Fund and shall be used by the Centre in carrying out its objects.

Annual report

45.10 (1) The Centre shall submit an annual report to the Minister within four months after the end of its fiscal year.

Fiscal year

(2) The fiscal year of the Centre shall be from April 1 to March 31 of the following year.

Audit

45.11 (1) The Centre must ensure that its books of financial account are audited annually in accordance with generally accepted accounting principles and a copy of the audit is given to the Minister.

Audit by Minister

(2) The Minister has the right to audit the Centre at any time that the Minister chooses.

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Subsection 7 (3) (section 46 of the Act)

I move that the definition of “Tribunal rules” in section 46 of the Act, as set out in subsection 7 (3) of the Bill, be amended by striking out “section 34” at the end and substituting “section 39”.

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 8 (section 46.1 of the Act)

I move that section 46.1 of the Act, as set out in section 8 of the Bill, be struck out.

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 8 (section 46.2 of the Act)

I move that section 46.2 of the Act, as set out in section 8 of the Bill, be struck out and the following substituted:

Civil remedy

46.2 (1) If, in a civil proceeding in a court, the court finds that a party to the proceeding has infringed a right under Part I of another party to the proceeding, the court may make either of the following orders, or both:

1. An order directing the party who infringed the right to pay monetary compensation to the party whose right was infringed for loss arising out of the infringement, including compensation for injury to dignity, feelings and self-respect.
2. An order directing the party who infringed the right to make restitution to the party whose right was infringed, other than through monetary compensation, for loss arising out of the infringement, including restitution for injury to dignity, feelings and self-respect.

Same

(2) Subsection (1) does not permit a person to commence an action based solely on an infringement of a right under Part I.

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 8 (subsection 46.3 (1) of the Act)

I move that subsection 46.3 (1) of the Act, as set out in section 8 of the Bill, be amended by striking out “section 9” and substituting “section 9 or subsection 29.2 (14), 29.3 (8) or 39.1 (13)”.

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 9 (clauses 48 (b), (c), (d), (e) and (f) of the Act)

I move that clauses 48 (b), (c), (d), (e) and (f) of the Act, as set out in section 9 of the Bill, be struck out and the following substituted:

- (b) prescribing matters for the purposes of clause 39 (3) (g);
- (c) respecting the Human Rights Legal Support Centre;
- (d) governing any matter that is necessary or advisable for the effective enforcement and administration of this Act.

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 9 (section 48 of the Act)

I move that section 9 of the Bill be amended by adding the following subsection:

(2) Section 48 of the Act is amended by adding the following subsection:

Human Rights Legal Support Centre

(2) A regulation made under clause (1) (c) may,

- (a) further define the Centre's constitution, management and structure as set out in Part IV.1;
- (b) prescribe powers and duties of the Centre and its members;
- (c) provide for limitations on the Centre's powers under subsection 45.4 (4);
- (d) prescribe services for the purposes of paragraph 3 of subsection 45.6 (1);
- (e) further define the nature and scope of support services referred to in subsection 45.6 (1);
- (f) provide for factors to be considered in appointing members and specify the circumstances and manner in which they are to be considered;
- (g) provide for the term of appointment and reappointment of the Centre's members;
- (h) provide for the nature and scope of the annual report required under section 45.10;

- (i) provide for reporting requirements in addition to the annual report;
- (j) provide for personal information to be collected by or on behalf of the Centre other than directly from the individual to whom the information relates, and for the manner in which the information is collected;
- (k) provide for the transfer from specified persons or entities of information, including personal information, that is relevant to carrying out the functions of the Centre;
- (l) provide for rules governing the confidentiality and security of information, including personal information, the collection, use and disclosure of such information, the retention and disposal of such information, and access to and correction of such information, including restrictions on any of these things, for the purposes of the carrying out of the functions of the Centre;
- (m) specify requirements and conditions for the funding of the Centre and for the Centre's budget;
- (n) provide for audits of the statements and records of the Centre;
- (o) determine whether or not the *Business Corporations Act*, the *Corporations Information Act* or the *Corporations Act* or any provisions of those Acts apply to the Centre;
- (p) provide for anything necessary or advisable for the purposes of Part IV.1.

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 10 (Section 49 of the Act)

I move that section 49 of the Act, as set out in section 10 of the Bill, be struck out and the following substituted:

Definitions

49. In this Part,

“effective date” means the day sections 5 and 6 of the *Human Rights Code Amendment Act, 2006* come into force; (“date d’effet”)

“new Part IV” means Part IV as it reads on and after the effective date; (“nouvelle partie IV”)

“old Part IV” means Part IV as it reads before the effective date. (“ancienne partie IV”)

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 10 (sections 51, 52, 53, 54 and 55 of the Act)

I move that sections 51, 52, 53, 54 and 55 of the Act, as set out in section 10 of the Bill, be struck out and the following substituted:

Application of s. 32 (1.2)

51. Subsection 32 (1.2) applies to the selection and appointment of persons to the Tribunal on or after the day section 10 of the *Human Rights Code Amendment Act, 2006* comes into force.

Tribunal powers before effective date

52. (1) Despite anything to the contrary in the old Part IV, the Tribunal may, before the effective date,

- (a) make rules in accordance with the new Part IV, including rules with respect to the reconsideration of Tribunal decisions; and
- (b) when dealing with complaints that are referred to it under section 36 of the old Part IV,
 - (i) deal with the complaint in accordance with the practices and procedures set out in the rules made under clause (a),
 - (ii) exercise the powers described in section 37 of the new Part IV, and
 - (iii) dispose of the complaint in accordance with section 37.1 of the new Part IV.

Application

- (2) Sections 37.2 and 38 of the new Part IV apply to rules made under clause (1) (a).

Tribunal decisions made before effective date

(3) Despite anything in the old Part IV, the following applies before the effective date with respect to a complaint that is referred to the Tribunal by the Commission under section 36 of the old Part IV on or after the day section 10 of the *Human Rights Code Amendment Act, 2006* comes into force:

1. Section 42 of the old Part IV does not apply to a decision of the Tribunal made with respect to the complaint.
2. Sections 44.2 and 45 of the new Part IV apply to a decision of the Tribunal made with respect to the complaint.

Complaints before Commission on effective date

53. (1) This section applies to a complaint filed with the Commission under subsection 32 (1) of the old Part IV or initiated by the Commission under subsection 32 (2) of the old Part IV before the effective date.

Commission powers continued for six months

(2) Subject to subsection (3) and despite the repeal of the old Part IV, during the six-month period that begins on the effective date, the Commission shall continue to deal with complaints referred to in subsection (1) in accordance with subsection 32 (3) and sections 33, 34, 36, 37 and 43 of the old Part IV and, for that purpose,

- (a) the Commission has all the powers described in subsection 32 (3) and sections 33, 34, 36, 37 and 43 of the old Part IV; and
- (b) the provisions referred to in clause (a) continue to apply with respect to the complaints, with necessary modifications.

Applications to Tribunal during six-month period

(3) Subject to subsection (4), at any time during the six-month period referred to in subsection (2), the person who made a complaint that is continued under that subsection may, in accordance with the Tribunal rules, elect to abandon the complaint and make an application to the Tribunal with respect to the subject-matter of the complaint.

Expedited process

(4) The Tribunal shall make rules with respect to the practices and procedures that apply to an application under subsection (3) in order to ensure that the applications are dealt with in an expeditious manner.

Applications to Tribunal after six-month period

(5) If, after the end of the six-month period referred to in subsection (2), the Commission has failed to deal with the merits of a complaint continued under that subsection and the complaint has not been withdrawn or settled, the complainant may make an application to the Tribunal with respect to the subject-matter of the complaint within a further six-month period after the end of the earlier six-month period.

New Part IV applies

(6) The new Part IV applies to an application made under subsections (3) and (5).

Disclosure of information

(7) Despite anything in the *Freedom of Information and Protection of Privacy Act*, at the request of a party to an application under subsection (3) or (5), the Commission may disclose to the party any information obtained by the Commission in the course of an investigation.

Application barred

(8) No application, other than an application under subsection (3) or (5), may be made to the Tribunal if the subject-matter of the application is the same or substantially the same as the subject-matter of a complaint that was filed with the Commission under the old Part IV.

Settlements effected by Commission

54. Section 45.1 of the new Part IV applies to the enforcement of a settlement that,

- (a) was effected by the Commission under the old Part IV before the effective date or during the six-month period referred to in subsection 53 (2); and
- (b) was agreed to in writing, signed by the parties and approved by the Commission.

Where complaints referred to Tribunal

55. (1) This section applies to complaints that are referred to the Tribunal by the Commission under section 36 of the old Part IV before the effective date or during the six-month period referred to in subsection 53 (2).

New Part IV applies

(2) On and after the effective date, the new Part IV applies to a complaint described in subsection (1) as though it were an application made to the Tribunal under that Part and the Tribunal shall deal with the complaint in accordance with the new Part IV.

Parties

(3) The Commission,

- (a) shall continue to be a party to a complaint that was referred to the Tribunal before the effective date; and
- (b) subject to subsection (4), shall not be a party to a complaint referred to the Tribunal during the six-month period referred to in subsection 53 (2).

Same, exceptions

(4) The Commission shall continue as a party to a complaint that was referred to the Tribunal during the six-month period referred to in subsection 53 (2) if,

- (a) the complaint was initiated by the Commission under subsection 32 (2) of the old Part IV; or
- (b) the Tribunal sets a date for the parties to appear before the Tribunal before the end of the six-month period.

Same

(5) Nothing in subsection (3) shall prevent,

- (a) the Tribunal from adding the Commission as a party to a proceeding under section 36.1 of the new Part IV; or
- (b) the Commission from intervening in a proceeding with respect to a complaint described in subsection (1).

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 10 (subsection 57 (1) of the Act)

I move that subsection 57 (1) of the Act, as set out in section 10 of the Bill, be amended by striking out “Five years after the day section 10 of the *Human Rights Code Amendment Act, 2006* comes into force” at the beginning and substituting “Three years after the effective date”.

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 10 (section 57 of the Act)

I move that section 57 of the Act, as set out in section 10 of the Bill, be amended by adding the following subsection:

Public consultations

(1.1) In conducting a review under this section, the person appointed under subsection (1) shall hold public consultations.

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 11

I move that section 11 of the Bill be struck out and the following substituted:

Legislation Act, 2006

11. On the later of the day section 6 of this Act comes into force and the day section 134 of the *Legislation Act, 2006* comes into force, subsection 39 (6) of the *Human Rights Code Act* is amended by striking out “the *Regulations Act*” at the end and substituting “Part III of the *Legislation Act, 2006*”.

Bill 107

An Act to amend the Human Rights Code

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 12

I move that section 12 of the Bill be struck out and the following substituted:

Commencement

12. (1) Sections 6.1, 10 and 11, this section and section 13 come into force on the day this Act receives Royal Assent.

Same

(2) Sections 1 to 6 and 7, 8 and 9 come into force on a day to be named by proclamation of the Lieutenant Governor.