Discrimination:

the new Human Rights Code?

By SHAYNA B. KRAVETZ

LL.B. In 1981, the Ontario Legislature passed "An Act to revise and extend Protection of Human · Rights in Ontario". This created a new Human Rights Code for Ontario, to protect Ontarians from discrimination.

The word "discrimination" simply means seeing a difference between one thing and another; however, "discrimination" in the Code means letting your ideas about a group affect your assessment of an ladividual. It has never been a breach of the Code to choose the smarter of two people, or to hire someone because he or she is more competent than someone else. However, it is an offence under both the new and old Code to choose an Anglican in

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LL.B.

when you are: (1) working

or looking for work; (2)

looking for or using hous-

ing: (3) looking for or

using services, goods or

facilities; (4) making a

contract; or, (5) being

herassed. This part of

Article 2 will deal with

(1) Working: Everyone

has the right to work or

look for work without dis-

crimination on the basis of

any of the prohibited

grounds of discrimination.

For example, you cannot

legally be hired, fired,

promoted, demoted, trans-

ferred, or otherwise

affected simply because of

your race. No one can

refuse to hire you, just

because you have a crimi-

nal record (for which you

have been pardoned) or a

record of provincial

job, the interviewer can-

not legally ask you questi-

ons concerning the prohi-

bited grounds of discri-

mination or refer to them

in the application form or

the advertisement for the

Job. You cannot legally be

discriminated against in

applying to join a trade

When you apply for a

offences.

working and housing.

You can rely on the Code

preference to a Catholic just because of his or her religion. Creed is a prohibited ground of discrimination.

The new Human Rights Code takes a new approach. It sets out what everyone is entitled to, not what is forbidden for someone to do. The new Code creates rights rather than offences. Generally, when courts consider how to interpret a new law. they take into account whether rights are to be given or taken away. If it seems that the law is intended to give more rights to people, as the new Code is, the courts will try to give the broadest meaning possible to the words of the law. The courts will use the Code to compensate people who have been discriminated against.

In addition to rights

against you.

offences, or marital status

if the particular ground of

discrimination is a reason-

able and genuine qualifi-



against direct discrimination, the new Code creates some broader rights. The new Code forbide disguised discrimination-creating qualifications that have the practical effect of discriminating on prohibited grounds, even if not apparently doing so. For example, the height restrictions that many police forces have are a practical discrimination against women, who are generally smaller than men. In addition, the Code forbids discrimination by association - I.e. against someone who is related to or deals with a member of a group against whom

At home, at work, in contracts -

discrimination is forbidd-

The new Code says that you are usually entitled not to be discriminated against on the basis of race, ancestry, place of origin, color, ethnic origin, cilizenship, creed, sex, age, marital status, family status, or handicap; these are "prohibited grounds of discrimination". In employment, you are entitled not to be discriminated against on the basis of your record of offences, if you have been pardoned or if the offences were under provincial statutes. In accommodation, you are entitled not to be discriminated against because you receive public assistance.

The new Code defines "age" as being any age over eighteen, (except in employment where people are protected from ages 18 to 65), "handleap" to include any physical illness or deformity or mental illness or mental retardation, "family status" as being someone's parent or child, and "marital status", in addition to its usual meaning. to include living with someone outside of marriage.

The new Code gives you the right to be considered as a person on your own merits, without having any prohibited ground of discrimination taken into consideration as well.

The information in this

article is accurate as of July 1982. For more

information on this and other topics contact Community Legal Education Ontario, 62 Noble Street, Toronto, Ontario, M&K 2C9. For legal advice

contact your local lawyer or the Halton Hills Community Legal Aid Clinic at 5 Wesleyan St., Georgetown, 877-5256.

Acton home robbed

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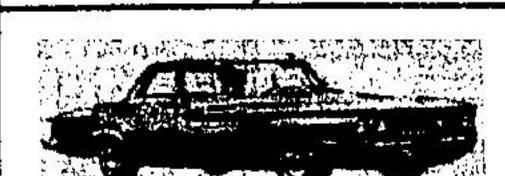
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when does the new code apply? group, provided that such cannot legally try to a restriction is required by discourage you from workthe nature of the job. For ing by forcing you to apply for a pension or insurance example, a Baptist church may insist on hiring only a plan that discriminates Baptist teacher for its Sunday School because the But this right is subject

church relies on the teachto some important exceper to instill religious values in the students. (a) You may still be forced to retire at age 65. (b) An employer may discriminate on the basis of age, sex, record of

because he or she doesn't qualify for a pension or benefit plan. Nepotismspecial treatment for relatives-is still allowed under the Code. So is antinepotism; for example, a Continued on page 7



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cation for the employment. So, for a job involving the handling of money, such as a bank teller, it might be reasonable that the bank should inquire whether you had ever been convicted of a charge of theft or fraud; honesty is a necessary and reasonable qualification for the job, and previous convictions of the crimes mentioned could reasonably be taken into account by the employer in deciding

for such a job. (c) Organizations defined by a prohibited ground of discrimination (such as churches, which are defined by creed) can choose to hire only people who union, either. An employer | belong to that particular

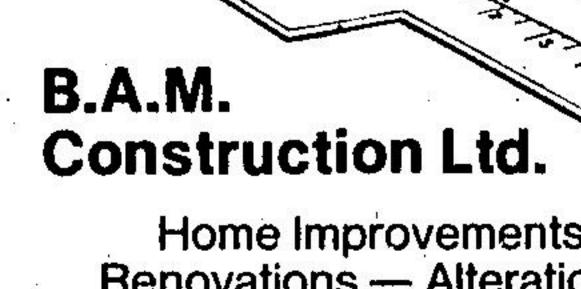
whether or not to hire you

(d) A company's pensi-

can still discriminate on the basis of age, sex, marital status, or family status, so long as they comply with the Employmeet Standards Act of Ontario. They can also discriminate on the basis of a handicap, but only if there is a good reason to do so; however, the company can't refuse to hire a handicapped person just

on plans and benefits plans

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