

1990-91-92

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 26 May 1992

(Minister for Health, Housing and Community Services)

A BILL

FOR

**An Act to amend Acts relating to human rights and
equal opportunity**

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Human Rights and Equal
5 Opportunity Legislation Amendment Act 1992*.

Commencement

2. This Act commences on the same day as Part 6 of the *Disability
Discrimination Act 1992* commences.

**PART 2—AMENDMENTS OF THE HUMAN RIGHTS AND
EQUAL OPPORTUNITY COMMISSION ACT 1986**

Principal Act

3. In this Part, “**Principal Act**” means the *Human Rights and Equal Opportunity Commission Act 1986*¹. 5

Interpretation

4. Section 3 of the Principal Act is amended:

(a) by omitting from subsection (1) the definition of “appoint”;

(b) by inserting in subsection (1) the following definition:

“**‘Disability Discrimination Commissioner’** means the Disability Discrimination Commissioner appointed under the *Disability Discrimination Act 1992*.”. 10

Constitution of Commission

5. Section 8 of the Principal Act is amended:

(a) by omitting paragraphs (1)(d) and (e) and substituting the following paragraphs: 15

“(d) the Sex Discrimination Commissioner;

(e) the Privacy Commissioner; and

(f) the Disability Discrimination Commissioner.”;

(b) by omitting from subsection (7) “or Privacy Commissioner” and substituting “, Privacy Commissioner or Disability Discrimination Commissioner”. 20

Functions of Commission

6. Section 11 of the Principal Act is amended by omitting from subsection (3) “or the *Sex Discrimination Act 1984*” and substituting “, the *Sex Discrimination Act 1984* or the *Disability Discrimination Act 1992*”. 25

Form of examinations or inquiries to be at discretion of Commission etc.

7. Section 14 of the Principal Act is amended by inserting in subsection (8) “or the *Disability Discrimination Act 1992*” after “1984”. 30

Inter-governmental arrangements

8. Section 16 of the Principal Act is amended:

(a) by omitting from subsection (2A) “and the *Sex Discrimination Act 1984*” and substituting “, the *Sex Discrimination Act 1984* and the *Disability Discrimination Act 1992*”; 35

(b) by adding at the end of paragraph (2A)(a) “and”;

- (c) by inserting after paragraph (2A)(b) the following paragraph:
“(ba) in the case of an act falling within section 68 of the
Disability Discrimination Act 1992—the Disability
Discrimination Commissioner; and”.

5 **Delegation**

9. Section 19 of the Principal Act is amended:

- (a) by omitting from subsection (1) “, either generally or as
otherwise provided by the instrument of delegation”;
- 10 (b) by omitting from subsection (1) “, other than this power of
delegation”;
- (c) by omitting from subsection (2) “, either generally or otherwise
provided by the instrument of delegation”;
- (d) by omitting from subsection (2) “, other than this power of
delegation”;
- 15 (e) by omitting subsections (3) and (4);
- (f) by omitting from subsection (6) “or the *Sex Discrimination Act
1984*” and substituting “, the *Sex Discrimination Act 1984* or
the *Disability Discrimination Act 1992*”.

Acting President and Human Rights Commissioner

20 10. Section 36 of the Principal Act is amended:

- (a) by omitting subsection (2) and substituting the following
subsection:
- 25 “(2) The Minister may appoint a person to act as President:
(a) during a vacancy in the office of President, whether or
not an appointment has previously been made to the
office; or
(b) during any period, or during all periods, when the
President is absent from duty or from Australia or is,
for any other reason, unable to perform the functions of
30 the office of President;
- but, a person so appointed must not act as President during
any period while the Human Rights Commissioner is available
so to act.”;
- 35 (b) by omitting subsections (3) to (8) (inclusive) and substituting
the following subsection:
- “ (3) The Minister may appoint a person to act as Human
Rights Commissioner:
- (a) during a vacancy in the office of Human Rights
Commissioner, whether or not an appointment has
40 previously been made to the office; or
(b) during any period, or during all periods, when the Human
Rights Commissioner is absent from duty or from

*Human Rights and Equal Opportunity Legislation
Amendment No. , 1992*

Australia, or is, for any other reason, unable to perform the functions of the office of Human Rights Commissioner.”.

PART 3—AMENDMENTS OF OTHER ACTS

11. The Acts specified in the Schedule are amended as set out in that Schedule.

SCHEDULE

Section 11

AMENDMENTS OF OTHER ACTS

Industrial Relations Act 1988

Section 93:

Omit “and the *Sex Discrimination Act 1984*”, substitute “, the *Sex Discrimination Act 1984* and the *Disability Discrimination Act 1992*”.

Racial Discrimination Act 1975

Section 32:

Repeal the section, substitute:

Leave of absence

“32.(1) Subject to section 87E of the *Public Service Act 1922*, the Commissioner has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the Commissioner leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 34(2)(a):

Omit “granted by the Minister”.

Subsection 36(1):

Omit “, but a person so appointed to act during a vacancy shall not continue to act for more than 12 months”.

Subsections 36(2) and (3):

Omit the subsections.

Subsection 36(5):

Omit the subsection.

Subsection 40(1):

(a) Omit “, either generally or otherwise as provided by the instrument of delegation”.

(b) Omit “, except this power of delegation”.

Subsection 40(2):

(a) Omit “, either generally or otherwise as provided by the instrument of delegation”.

SCHEDULE—continued

(b) Omit “, except this power of delegation”.

Subsections 40(3) and (4):

Omit the subsections.

Sex Discrimination Act 1984

Section 99:

Repeal the section, substitute:

Leave of absence

“99.(1) Subject to section 87E of the *Public Service Act 1922*, the Commissioner has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the Commissioner leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 102(2)(b):

Omit “granted by the Minister”.

Subsection 103(1):

Omit “; but a person appointed to act during a vacancy shall not continue so to act for more than 12 months”.

Subsections 103(2) to (6) (inclusive):

Omit the subsections.

Subsection 104(1):

(a) Omit “, either generally or as otherwise provided by the instrument of delegation,”.

(b) Omit all the words after “other”, substitute “than powers in connection with the performance of the functions that, under section 49, are to be performed by the Commissioner on behalf of the Commission”.

Subsection 104(2):

(a) Omit “, either generally or as otherwise provided by the instrument of delegation”.

(b) Omit “, other than this power of delegation”.

Subsections 104(3) and (4):

Omit the subsections.

NOTE

1. No. 125, 1986, as amended. For previous amendments, see No. 141, 1987; Nos. 38, 99 and 119, 1988; Nos. 75 and 115, 1990; and No. 122, 1991.



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