

THIS bill originated in the Senate; and, having this day passed, is now ready for presentation to the House of Representatives for its concurrence.

HARRY EVANS
Clerk of the Senate

The Senate
Canberra, 9 June 1995

A BILL

FOR

An Act to amend the law relating to human rights, and for related purposes

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Human Rights Legislation Amendment Act 1995*.

Commencement

2.(1) This Act, other than the amendment made by item 25 of the Schedule, commences on the day on which it receives the Royal Assent.

(2) The amendment made by item 25 of the Schedule is taken to have commenced on 30 October 1992.

5

Amendment of Acts

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

Transitional provision—validity of current appointments not affected

4. Nothing in the amendments made by this Act affects the validity or continued effectiveness of an appointment, made before the day on which this Act receives the Royal Assent, of a person as:

10

(a) the President of the Human Rights and Equal Opportunity Commission; or

(b) the Human Rights Commissioner, the Race Discrimination Commissioner, the Sex Discrimination Commissioner, the Privacy Commissioner or the Disability Discrimination Commissioner.

15

Transitional provision—powers of a Secretary in relation to staff of Human Rights and Equal Opportunity Commission

5.(1) In this section:

20

“**Commission**” means the Human Rights and Equal Opportunity Commission;

“**Commissioner**” means the Human Rights Commissioner.

(2) A thing done by the Commissioner before the commencement of this section in the exercise of powers referred to in subsection 43(2) of the *Human Rights and Equal Opportunity Commission Act 1986* has effect, for the purpose of the exercise by the Commission after that commencement of powers referred to in that subsection, as if it were done by the Commission.

25

SCHEDULE

Section 3

AMENDMENTS OF ACTS

**PART 1—AMENDMENTS OF THE DISABILITY
DISCRIMINATION ACT 1992, THE PRIVACY ACT 1988, THE
RACIAL DISCRIMINATION ACT 1975 AND THE SEX
DISCRIMINATION ACT 1984 RELATING TO ENFORCEMENT
OF DETERMINATIONS**

Disability Discrimination Act 1992

1. Sections 104A, 104B and 104C:

Repeal the sections.

2. Section 106:

Repeal the section, substitute:

*“Division 3A—Enforcement of determinations involving respondents
other than Commonwealth agencies*

*“Subdivision A—Determinations made after commencement of
Division*

Proceedings in the Federal Court to enforce a determination

“105A.(1) The Commission, the complainant, or a person acting on behalf of the complainant, may commence proceedings in the Federal Court for an order to enforce a determination made under subsection 102(1) or 103(1) after the commencement of this Division, except where the respondent to the determination is a Commonwealth agency or the principal executive of a Commonwealth agency.

“(2) If the Court is satisfied that the respondent has engaged in conduct or committed an act that is unlawful under this Act, the Court may make such orders (including a declaration of right) as it thinks fit.

“(3) The Court may, if it thinks fit, grant an interim injunction pending the determination of the proceedings.

“(4) The Court is not to require a person, as a condition of granting an interim injunction, to give an undertaking as to damages.

“(5) In the proceedings, the question whether the respondent has engaged in conduct or committed an act that is unlawful under this Act is to be dealt with by the Court by way of a hearing *de novo*, but the Court may receive as evidence any of the following:

SCHEDULE—continued

- (a) a copy of the Commission's written reasons for the determination;
- (b) a copy of any document that was before the Commission;
- (c) a copy of the record (including any tape recording) of the Commission's inquiry into the complaint.

“(6) In this section:

‘complainant’, in relation to a representative complaint, means any of the class members.

Assistance in proceedings before the Federal Court

“105B.(1) A person who:

- (a) has commenced or proposes to commence proceedings in the Federal Court under section 105A; or
- (b) has done or is alleged to have done an act in respect of which proceedings have been commenced in the Federal Court under section 105A;

may apply to the Attorney-General for the provision of assistance under this section in respect of the proceedings.

“(2) If:

- (a) an application is made by a person under subsection (1); and
- (b) the Attorney-General is satisfied that:
 - (i) it will involve hardship to that person to refuse the application; and
 - (ii) in all the circumstances, it is reasonable to grant the application;

the Attorney-General may authorise the provision by the Commonwealth to that person, on such conditions (if any) as the Attorney-General determines, of such legal or financial assistance in respect of the proceedings as the Attorney-General determines.

***“Subdivision B—Determinations made from 1 March 1993 to
commencement of Division***

Interpretation

“105C. In this Subdivision:

‘recovery proceedings’, in relation to a Subdivision B determination, means proceedings before any court in which the respondent to the determination is seeking to recover an amount, or is seeking some other remedy, in respect of money paid, or conduct engaged in or not engaged in, by the respondent pursuant to the determination;

SCHEDULE—continued

‘Subdivision B determination’ means a determination made under subsection 102(1) or 103(1) during the period starting on 1 March 1993 and ending on the commencement of this Division, except where the respondent to the determination is a Commonwealth agency or the principal executive of a Commonwealth agency.

Proceedings in the Federal Court in relation to a Subdivision B determination

“105D.(1) A person referred to in subsection (2) may commence proceedings in the Federal Court for an order under this section in relation to a Subdivision B determination.

“(2) The following persons may commence proceedings under subsection (1):

- (a) the Commission;
- (b) the complainant;
- (c) a person acting on behalf of the complainant;
- (d) the respondent to the determination.

“(3) The Court must consider whether the respondent to the determination has engaged in conduct or committed an act that is unlawful under this Act, and may, subject to subsection (4), make such orders (including a declaration of right) as it thinks fit.

“(4) In deciding what orders to make under subsection (3), the Court must take into account:

- (a) any money paid, or conduct engaged in or not engaged in, by the respondent to the determination pursuant to the determination; and
- (b) the outcome of any recovery proceedings in relation to the determination.

“(5) The Court may, if it thinks fit, grant an interim injunction pending the determination of the proceedings.

“(6) The Court is not to require a person, as a condition of granting an interim injunction, to give an undertaking as to damages.

“(7) In the proceedings, the question whether the respondent has engaged in conduct or committed an act that is unlawful under this Act is to be dealt with by the Court by way of a hearing *de novo*, but the Court may receive as evidence any of the following:

- (a) a copy of the Commission’s written reasons for the determination;
- (b) a copy of any document that was before the Commission;
- (c) a copy of the record (including any tape recording) of the Commission’s inquiry into the complaint.

SCHEDULE—continued

“(8) In this section:

‘**complainant**’, in relation to a representative complaint, means any of the class members.

Federal Court may vary order made under section 105D if a court determines recovery proceedings

“105E.(1) If:

- (a) the Federal Court makes an order under subsection 105D(3) in relation to a Subdivision B determination; and
 - (b) after the Federal Court makes the order, a court makes an order determining recovery proceedings in relation to the determination;
- the person against whom the recovery proceedings were commenced may apply to the Federal Court for a variation of the order it made under subsection 105D(3).

“(2) The Court may vary the order it made if it thinks it appropriate to do so having regard to its reasons for making that order and to the order made in the recovery proceedings.

Assistance in proceedings before the Federal Court

“105F.(1) A person who is a party to proceedings in the Federal Court under this Subdivision, or who proposes to commence such proceedings, may apply to the Attorney-General for the provision of assistance under this section in respect of the proceedings.

“(2) If:

- (a) an application is made by a person under subsection (1); and
- (b) the Attorney-General is satisfied that, in all the circumstances, it is reasonable to grant the application;

the Attorney-General may authorise the provision by the Commonwealth to that person, on such conditions (if any) as the Attorney-General determines, of such legal or financial assistance in respect of the proceedings as the Attorney-General determines.

Subdivision does not create right for respondent to determination to commence proceedings

“106. This Subdivision (except section 105D) does not create, and is not to be taken to create, any right of action in favour of the respondent to a Subdivision B determination.”.

Privacy Act 1988

3. Division 3 of Part V:

Repeal the Division, substitute:

SCHEDULE—continued

“Division 3—Enforcement of determinations involving respondents other than Commonwealth agencies

Application of Division

“54.(1) This Division applies to a determination made under section 52 after the commencement of this Division, except where the respondent to the determination is an agency or the principal executive of an agency.

“(2) In this section:
‘agency’ does not include an eligible case manager.

Proceedings in the Federal Court to enforce a determination

“55.(1) The Commissioner or the complainant may commence proceedings in the Federal Court for an order to enforce a determination to which this Division applies.

“(2) If the Court is satisfied that the respondent has engaged in conduct that constitutes an interference with the privacy of the complainant, the Court may make such orders (including a declaration of right) as it thinks fit.

“(3) The Court may, if it thinks fit, grant an interim injunction pending the determination of the proceedings.

“(4) The Court is not to require a person, as a condition of granting an interim injunction, to give an undertaking as to damages.

“(5) In the proceedings, the question whether the respondent has engaged in conduct that constitutes an interference with the privacy of the complainant is to be dealt with by the Court by way of a hearing *de novo*, but the Court may receive as evidence any of the following:

- (a) a copy of the Commissioner’s written reasons for the determination;
- (b) a copy of any document that was before the Commissioner;
- (c) a copy of a record (including any tape recording) of any appearance before the Commissioner (including any oral submissions made) pursuant to subsection 43(5).

“(6) In this section:
‘complainant’, in relation to a representative complaint, means any of the class members.”.

4. Subsection 63(2):

Omit the subsection, substitute:

“(2) A person who:

- (a) has commenced or proposes to commence proceedings in the Federal Court under section 55; or

SCHEDULE—continued

- (b) has engaged in conduct or is alleged to have engaged in conduct in respect of which proceedings have been commenced in the Federal Court under section 55;

may apply to the Attorney-General for the provision of assistance under this section in respect of the proceedings.”.

Racial Discrimination Act 1975**5. Sections 25ZAA, 25ZAB and 25ZAC:**

Repeal the sections.

6. Section 25ZC:

Repeal the section, substitute:

“Division 3A—Enforcement of determinations involving respondents other than Commonwealth agencies

“Subdivision A—Determinations made after commencement of Division

Proceedings in the Federal Court to enforce a determination

“25ZC.(1) The Commission, the complainant, or a trade union acting on behalf of the complainant, may commence proceedings in the Federal Court for an order to enforce a determination made under subsection 25Y(1) or 25Z(1) after the commencement of this Division, except where the respondent to the determination is a Commonwealth agency or the principal executive of a Commonwealth agency.

“(2) If the Court is satisfied that the respondent has engaged in conduct or committed an act that is unlawful under this Act, the Court may make such orders (including a declaration of right) as it thinks fit.

“(3) The Court may, if it thinks fit, grant an interim injunction pending the determination of the proceedings.

“(4) The Court is not to require a person, as a condition of granting an interim injunction, to give an undertaking as to damages.

“(5) In the proceedings, the question whether the respondent has engaged in conduct or committed an act that is unlawful under this Act is to be dealt with by the Court by way of a hearing *de novo*, but the Court may receive as evidence any of the following:

- (a) a copy of the Commission’s written reasons for the determination;
- (b) a copy of any document that was before the Commission;

SCHEDULE—continued

- (c) a copy of the record (including any tape recording) of the Commission's inquiry into the complaint.

“(6) In this section:

‘complainant’:

- (a) in relation to a representative complaint—means any of the class members; and
- (b) in relation to a complaint made by a trade union on behalf of a person, not being a representative complaint—means the person on whose behalf the complaint was made;

‘trade union’ has the same meaning as in section 22.

Assistance in proceedings before the Federal Court

“25ZCA.(1) A person who:

- (a) has commenced or proposes to commence proceedings in the Federal Court under section 25ZC; or
- (b) has done or is alleged to have done an act in respect of which proceedings have been commenced in the Federal Court under section 25ZC;

may apply to the Attorney-General for the provision of assistance under this section in respect of the proceedings.

“(2) If:

- (a) an application is made by a person under subsection (1); and
- (b) the Attorney-General is satisfied that:
 - (i) it will involve hardship to that person to refuse the application; and
 - (ii) in all the circumstances, it is reasonable to grant the application;

the Attorney-General may authorise the provision by the Commonwealth to that person, on such conditions (if any) as the Attorney-General determines, of such legal or financial assistance in respect of the proceedings as the Attorney-General determines.

“Subdivision B—Determinations made from 13 January 1993 to commencement of Division

Interpretation

“25ZCB. In this Subdivision:

SCHEDULE—continued

‘recovery proceedings’, in relation to a Subdivision B determination, means proceedings before any court in which the respondent to the determination is seeking to recover an amount, or is seeking some other remedy, in respect of money paid, or conduct engaged in or not engaged in, by the respondent pursuant to the determination;

‘Subdivision B determination’ means a determination made under subsection 25Y(1) or 25Z(1) during the period starting on 13 January 1993 and ending on the commencement of this Division, other than a determination made in that period pursuant to a representative complaint lodged before 13 January 1993, except where the respondent to the determination is a Commonwealth agency or the principal executive of a Commonwealth agency.

Proceedings in the Federal Court in relation to a Subdivision B determination

“25ZCC.(1) A person referred to in subsection (2) may commence proceedings in the Federal Court for an order under this section in relation to a Subdivision B determination.

“(2) The following persons may commence proceedings under subsection (1):

- (a) the Commission;
- (b) the complainant;
- (c) a trade union acting on behalf of the complainant;
- (d) the respondent to the determination.

“(3) The Court must consider whether the respondent to the determination has engaged in conduct or committed an act that is unlawful under this Act, and may, subject to subsection (4), make such orders (including a declaration of right) as it thinks fit.

“(4) In deciding what orders to make under subsection (3), the Court must take into account:

- (a) any money paid, or conduct engaged in or not engaged in, by the respondent to the determination pursuant to the determination; and
- (b) the outcome of any recovery proceedings in relation to the determination.

“(5) The Court may, if it thinks fit, grant an interim injunction pending the determination of the proceedings.

“(6) The Court is not to require a person, as a condition of granting an interim injunction, to give an undertaking as to damages.

SCHEDULE—continued

“(7) In the proceedings, the question whether the respondent has engaged in conduct or committed an act that is unlawful under this Act is to be dealt with by the Court by way of a hearing *de novo*, but the Court may receive as evidence any of the following:

- (a) a copy of the Commission’s written reasons for the determination;
- (b) a copy of any document that was before the Commission;
- (c) a copy of the record (including any tape recording) of the Commission’s inquiry into the complaint.

“(8) In this section:

‘complainant’:

- (a) in relation to a representative complaint—means any of the class members; and
- (b) in relation to a complaint made by a trade union on behalf of a person, not being a representative complaint—means the person on whose behalf the complaint was made;

‘trade union’ has the same meaning as in section 22.

Federal Court may vary order made under section 25ZCC if a court determines recovery proceedings

“25ZCD.(1) If:

- (a) the Federal Court makes an order under subsection 25ZCC(3) in relation to a Subdivision B determination; and
- (b) after the Federal Court makes the order, a court makes an order determining recovery proceedings in relation to the determination;

the person against whom the recovery proceedings were commenced may apply to the Federal Court for a variation of the order it made under subsection 25ZCC(3).

“(2) The Court may vary the order it made if it thinks it appropriate to do so having regard to its reasons for making that order and to the order made in the recovery proceedings.

Assistance in proceedings before the Federal Court

“25ZCE.(1) A person who is a party to proceedings in the Federal Court under this Subdivision, or who proposes to commence such proceedings, may apply to the Attorney-General for the provision of assistance under this section in respect of the proceedings.

“(2) If:

- (a) an application is made by a person under subsection (1); and
- (b) the Attorney-General is satisfied that, in all the circumstances, it is reasonable to grant the application;

SCHEDULE—continued

the Attorney-General may authorise the provision by the Commonwealth to that person, on such conditions (if any) as the Attorney-General determines, of such legal or financial assistance in respect of the proceedings as the Attorney-General determines.

Subdivision does not create right for respondent to determination to commence proceedings

“25ZCF. This Subdivision (except section 25ZCC) does not create, and is not to be taken to create, any right of action in favour of the respondent to a Subdivision B determination.”.

Sex Discrimination Act 1984**7. Sections 82A, 82B and 82C:**

Repeal the sections.

8. Section 84:

Repeal the section, substitute:

“Division 3A—Enforcement of determinations involving respondents other than Commonwealth agencies

“Subdivision A—Determinations made after commencement of Division

Proceedings in the Federal Court to enforce a determination

“83A.(1) The Commission, the complainant, or a trade union acting on behalf of the complainant, may commence proceedings in the Federal Court for an order to enforce a determination made under subsection 80(1) or 81(1) after the commencement of this Division, except where the respondent to the determination is a Commonwealth agency or the principal executive of a Commonwealth agency.

“(2) If the Court is satisfied that the respondent has engaged in conduct or committed an act that is unlawful under this Act, the Court may make such orders (including a declaration of right) as it thinks fit.

“(3) The Court may, if it thinks fit, grant an interim injunction pending the determination of the proceedings.

“(4) The Court is not to require a person, as a condition of granting an interim injunction, to give an undertaking as to damages.

“(5) In the proceedings, the question whether the respondent has engaged in conduct or committed an act that is unlawful under this Act, is to be dealt with by the Court by way of a hearing *de novo*, but the Court may receive as evidence any of the following:

SCHEDULE—continued

- (a) a copy of the Commission’s written reasons for the determination;
- (b) a copy of any document that was before the Commission;
- (c) a copy of the record (including any tape recording) of the Commission’s inquiry into the complaint.

“(6) In this section:

‘complainant’:

- (a) in relation to a representative complaint—means any of the class members; and
- (b) in relation to a complaint made by a trade union on behalf of a person, not being a representative complaint—means the person on whose behalf the complaint was made;

‘trade union’ has the same meaning as in section 50.

Assistance in proceedings before the Federal Court

“83B.(1) A person who:

- (a) has commenced or proposes to commence proceedings in the Federal Court under section 83A; or
- (b) has done or is alleged to have done an act in respect of which proceedings have been commenced in the Federal Court under section 83A;

may apply to the Attorney-General for the provision of assistance under this section in respect of the proceedings.

“(2) If:

- (a) an application is made by a person under subsection (1); and
- (b) the Attorney-General is satisfied that:
 - (i) it will involve hardship to that person to refuse the application; and
 - (ii) in all the circumstances, it is reasonable to grant the application;

the Attorney-General may authorise the provision by the Commonwealth to that person, on such conditions (if any) as the Attorney-General determines, of such legal or financial assistance in respect of the proceedings as the Attorney-General determines.

“Subdivision B—Determinations made from 13 January 1993 to commencement of Division

Interpretation

“83C. In this Subdivision:

SCHEDULE—continued

‘recovery proceedings’, in relation to a Subdivision B determination, means proceedings before any court in which the respondent to the determination is seeking to recover an amount, or is seeking some other remedy, in respect of money paid, or conduct engaged in or not engaged in, by the respondent pursuant to the determination;

‘Subdivision B determination’ means a determination made under subsection 80(1) or 81(1) during the period starting on 13 January 1993 and ending on the commencement of this Division, other than a determination made in that period pursuant to a representative complaint lodged before 13 January 1993, except where the respondent to the determination is a Commonwealth agency or the principal executive of a Commonwealth agency.

Proceedings in the Federal Court in relation to a Subdivision B determination

“83D.(1) A person referred to in subsection (2) may commence proceedings in the Federal Court for an order under this section in relation to a Subdivision B determination.

“(2) The following persons may commence proceedings under subsection (1):

- (a) the Commission;
- (b) the complainant;
- (c) a trade union acting on behalf of the complainant;
- (d) the respondent to the determination.

“(3) The Court must consider whether the respondent to the determination has engaged in conduct or committed an act that is unlawful under this Act, and may, subject to subsection (4), make such orders (including a declaration of right) as it thinks fit.

“(4) In deciding what orders to make under subsection (3), the Court must take into account:

- (a) any money paid, or conduct engaged in or not engaged in, by the respondent to the determination pursuant to the determination; and
- (b) the outcome of any recovery proceedings in relation to the determination.

“(5) The Court may, if it thinks fit, grant an interim injunction pending the determination of the proceedings.

“(6) The Court is not to require a person, as a condition of granting an interim injunction, to give an undertaking as to damages.

SCHEDULE—continued

“(7) In the proceedings, the question whether the respondent has engaged in conduct or committed an act that is unlawful under this Act is to be dealt with by the Court by way of a hearing *de novo*, but the Court may receive as evidence any of the following:

- (a) a copy of the Commission’s written reasons for the determination;
- (b) a copy of any document that was before the Commission;
- (c) a copy of the record (including any tape recording) of the Commission’s inquiry into the complaint.

“(8) In this section:

‘complainant’:

- (a) in relation to a representative complaint—means any of the class members; and
- (b) in relation to a complaint made by a trade union on behalf of a person, not being a representative complaint—means the person on whose behalf the complaint was made;

‘trade union’ has the same meaning as in section 50.

Federal Court may vary order made under section 83D if a court determines recovery proceedings

“83E.(1) If:

- (a) the Federal Court makes an order under subsection 83D(3) in relation to a Subdivision B determination; and
- (b) after the Federal Court makes the order, a court makes an order determining recovery proceedings in relation to the determination;

the person against whom the recovery proceedings were commenced may apply to the Federal Court for a variation of the order it made under subsection 83D(3).

“(2) The Court may vary the order it made if it thinks it appropriate to do so having regard to its reasons for making that order and to the order made in the recovery proceedings.

Assistance in proceedings before the Federal Court

“83F.(1) A person who is a party to proceedings in the Federal Court under this Subdivision, or who proposes to commence such proceedings, may apply to the Attorney-General for the provision of assistance under this section in respect of the proceedings.

“(2) If:

- (a) an application is made by a person under subsection (1); and
- (b) the Attorney-General is satisfied that, in all the circumstances, it is reasonable to grant the application;

SCHEDULE—continued

the Attorney-General may authorise the provision by the Commonwealth to that person, on such conditions (if any) as the Attorney-General determines, of such legal or financial assistance in respect of the proceedings as the Attorney-General determines.

Subdivision does not create right for respondent to determination to commence proceedings

“84. This Subdivision (except section 83D) does not create, and is not to be taken to create, any right of action in favour of the respondent to a Subdivision B determination.”.

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

Human Rights and Equal Opportunity Commission Act 1986

9. Paragraph 8(1)(d):

Add at the end “and”.

10. Subsections 8(2), (3), (4) and (5):

Omit the subsections, substitute:

“(2) The members must act in a way that promotes the collegiate nature of the Commission.”.

11. Subsection 8(8):

Omit the subsection.

12. After section 8:

Insert:

The President

“8A.(1) The President is to be appointed by the Governor-General as a full-time member or a part-time member.

“(2) The President is the senior member of the Commission.

“(3) The President’s main functions and powers are set out in the Table below.

Item	Function or power	Conferred by
1.	Convening and presiding at meetings of the Commission (this Act)	Subsections 44(1), (2) and (4) of this Act

SCHEDULE—continued**TABLE**—continued

2.	Reviewing decisions not to inquire into an act, or not to continue to inquire into an act (RDA and SDA)	Section 24AA of the RDA and section 52A of the SDA
3.	Making interim determinations (RDA, SDA and DDA)	Sections 24AB and 25Y of the RDA, sections 52B and 80 of the SDA and section 102 of the DDA
4.	Dismissing complaints (DDA)	Section 101 of the DDA
5.	Reviewing decisions not to refer an award or determination (SDA)	Sections 50B and 50D of the SDA
6.	Giving directions about who may exercise inquiry powers (RDA, SDA and DDA)	Section 25B of the RDA, section 60 of the SDA and section 80 of the DDA
7.	Requesting people to participate in the holding of inquiries as if they were members of the Commission (RDA, SDA and DDA)	Subsection 24F(3) of the RDA, subsection 57A(3) of the SDA and subsection 77(2) of the DDA

“(4) In the Table in subsection (3):

‘**DDA**’ means the *Disability Discrimination Act 1992*;

‘**RDA**’ means the *Racial Discrimination Act 1975*;

‘**SDA**’ means the *Sex Discrimination Act 1984*.

The Human Rights Commissioner

“8B.(1) The Human Rights Commissioner is to be appointed by the Governor-General as a full-time member.

“(2) A person is not qualified to be appointed as the Human Rights Commissioner unless the Governor-General is satisfied that the person has appropriate qualifications, knowledge or experience.”.

13. Heading to Division 2 of Part II:

Omit the heading, substitute:

“*Division 2—Duties, functions and powers of Commission*”.

14. Before section 11:

Insert in Division 2 of Part II:

SCHEDULE—continued**Duties of Commission**

“10A.(1) It is the duty of the Commission to ensure that the functions of the Commission under this or any other Act are performed:

(a) with regard for:

- (i) the indivisibility and universality of human rights; and
- (ii) the principle that every person is free and equal in dignity and rights; and

(b) efficiently and with the greatest possible benefit to the people of Australia.

“(2) Nothing in this section imposes a duty on the Commission that is enforceable by proceedings in a court.”.

15. Section 12:

Repeal the section.

16. After subsection 19(2):

Insert:

“(3) Subject to subsection (4), the President may, by signed writing, delegate to:

- (a) a member of the Commission; or
- (b) a person who holds an appointment under subsection 24F(1) of the *Racial Discrimination Act 1975*, subsection 57A(1) of the *Sex Discrimination Act 1984* or subsection 77(1) of the *Disability Discrimination Act 1992*;

all or any of the President’s powers under the *Racial Discrimination Act 1975*, the *Sex Discrimination Act 1984* or the *Disability Discrimination Act 1992*.

“(4) Subsection (3) does not apply to the President’s powers under:

- (a) sections 24AB and 25Y of the *Racial Discrimination Act 1975*; or
- (b) sections 52B and 80 of the *Sex Discrimination Act 1984*; or
- (c) section 102 of the *Disability Discrimination Act 1992*.”.

17. Subsection 36(1):

Omit the subsection.

18. Subsection 36(2):

Omit all the words after paragraph (b).

19. Subsection 38(3):

Omit “*Tribunals*”, substitute “*Tribunal*”.

SCHEDULE—continued

20. Subsection 43(2):

Omit the subsection, substitute:

“(2) The Commission has all the powers of, or exercisable by, a Secretary under the *Public Service Act 1922*, so far as those powers relate to the branch of the Australian Public Service comprising the staff referred to in subsection (1), as if that branch were a separate Department of the Australian Public Service.”.

21. After section 43:

Insert:

Commission may make staff and administrative services available to the Privacy Commissioner

“43A. The Commission may make staff and administrative services available to the Privacy Commissioner for the purpose of assisting the Privacy Commissioner in the performance of his or her functions under the *Privacy Act 1988* or any other Act.”.

22. Subsection 44(5):

Omit the subsection, substitute:

“(5) If the President is not present at a meeting of the Commission, the members present are to elect one of their number to preside at the meeting.”.

23 After section 46:

Insert in Part II:

“Division 6—Corporate plan

Corporate plan

“46AA.(1) The Commission must prepare corporate plans.

“(2) The first corporate plan:

(a) is to be for a period of 3 years; and

(b) must be given to the Minister within 12 months after the commencement of this section.

“(3) Each subsequent corporate plan is to be for a period of 3 years beginning immediately after the period of the previous corporate plan.

“(4) The Commission may review and revise a corporate plan at any time.

“(5) In performing its duties and functions, the Commission must take account of the corporate plan then in force.

Matters to be included in corporate plan

“46AB. Each corporate plan must:

SCHEDULE—continued

- (a) set out the general policies and strategies that the Commission intends to adopt in order to perform its duties and functions; and
- (b) include such performance indicators and targets as the Commission considers appropriate.

Corporate plans to be given to Minister

“46AC. As soon as practicable after the Commission prepares or revises a corporate plan, it must give a copy of the plan to the Minister.”.

PART 3—OTHER AMENDMENTS***Disability Discrimination Act 1992*****24. Section 113:**

Add at the end:

“(2) A person is not qualified to be appointed as the Disability Discrimination Commissioner unless the Governor-General is satisfied that the person has appropriate qualifications, knowledge or experience.”.

Human Rights and Equal Opportunity Legislation Amendment Act 1992**25. Paragraph 9(c):**

After “generally or” insert “as”.

Privacy Act 1988**26. Section 19:**

Add at the end:

“(2) A person is not qualified to be appointed as the Privacy Commissioner unless the Governor-General is satisfied that the person has appropriate qualifications, knowledge or experience.”.

27. Subsection 21(3):

Omit “*Tribunals*”, substitute “*Tribunal*”.

Racial Discrimination Act 1975**28. Section 29:**

Add at the end:

“(2) A person is not qualified to be appointed as the Race Discrimination Commissioner unless the Governor-General is satisfied that the person has appropriate qualifications, knowledge or experience.”.

29. Subsection 31(3):

Omit “*Tribunals*”, substitute “*Tribunal*”.

SCHEDULE—continued

30. Subsection 42(3):

Omit “*Tribunals*”, substitute “*Tribunal*”.

Sex Discrimination Act 1984

31. Subsection 44(3):

After “paragraph 41(1)(e)” insert “or paragraph 41B(1)(b)”.

32. Section 96:

Add at the end:

“(2) A person is not qualified to be appointed as the Sex Discrimination Commissioner unless the Governor-General is satisfied that the person has appropriate qualifications, knowledge or experience.”.

33. Subsection 98(3):

Omit “*Tribunals*”, substitute “*Tribunal*”.

NOTE ABOUT SECTION HEADING

1. On the commencement of item 14 of the Schedule to this Act, the heading to section 13 of the *Human Rights and Equal Opportunity Commission Act 1986* is altered by omitting “**and duties**”.

